UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 23-10063-shl

- x

In the Matter of:

GENESIS GLOBAL HOLDCO, LLC, et al.,

Debtors.

- x

United States Bankruptcy Court

300 Quarropas Street, Room 248

White Plains, NY 10601

November 28, 2023

2:03 PM

B E F O R E :

HON SEAN H. LANE

U.S. BANKRUPTCY JUDGE

ECRO: UNKNOWN

HEARING re ***Participants In Person*** Doc #952 Amended Notice Of Agenda

HEARING re Objection of the Genesis Crypto Creditors Ad Hoc Group to (A) Debtors Motion to Approve (I) the Adequacy of Information in the Disclosure Statement, (II) Solicitation and Voting Procedures, (III) Forms of Ballots, Notices, and Notice Procedures in Connection Therewith, and (IV) Certain Dates With Respect Thereto, and (B) Amended Disclosure Statement with Respect to the Amended Joint Plan of Genesis Global Holdco, LLC et al., Under Chapter 11 of the Bankruptcy Code (related document(s)950, 461)

HEARING re ***Participants In Person***Doc. #461 (Disclosure Statement) Motion To Approve (I) The Adequacy Of Information In The Disclosure Statement, (II) Solicitation And Voting Procedures, (III) Forms Of Ballots, Notices, And Notice Procedures In Connection Therewith, And (FV) Certain Dates With Respect Thereto

HEARING re ***Participants In Person***Doc. #785 Third Motion To Extend Exclusivity Period For Filing A Chapter 11 Plan And Disclosure Statement

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P R O C E E D I N G S

THE COURT: Good afternoon. Please be seated. We are here this afternoon -- even judges forget to unmute themselves from time to time. We are here this afternoon for the Genesis cases. And my thought would be to get appearances and then ask how you want to proceed. I know we've had a couple of chambers' conferences in past hearings. Again, subject to the usual rules about giving an update about what we talked about. And so, I'm also happy to make that -- to throw that out there to the extent the parties want to do that today. We can do appearances before or after.

So, let me hear from Debtor's counsel about what you propose in terms of moving forward.

MR. O'NEAL: Good afternoon. Sean O'Neal, Cleary Gottlieb, on behalf of the Debtors. I thought what we could do is we could start with a brief status conference just on the case. And then I think the main constituents are willing to do a chambers' conference just briefly. Shouldn't be long.

THE COURT: All right.

MR. O'NEAL: There is one technical issue which is one of the hopeful attendees for the chambers' conference is not here. And so, I'm hoping we could maybe dial that person in. It's part of the McDermott Group. If that's

okay.

THE COURT: All right. Let's take those one at a time. So, then we'll start with appearances, and we'll go from there. So, let me get appearances starting with Debtor's counsel.

MR. O'NEAL: Sean O'Neal and Jan VanLare on behalf of the Debtors.

THE COURT: All right. On behalf of the Official Committee?

MR. SHORE: Chris Shore from White & Case along with Todd West and Phil Abelson. Good afternoon, Your Honor.

THE COURT: Good afternoon. On behalf of the Ad Hoc Group of Claimants?

MR. ROSEN: Good afternoon, Your Honor. Brian Rosen and Jordan Sazant on behalf of the Ad Hoc Group.

THE COURT: All right. On behalf of what I understand to be the Ad Hoc Group of Dollar Lenders?

MR. SILVERMAN: Good afternoon, Your Honor. Matthew Silverman, Pryor Cashman, on behalf of the Ad Hoc Group of Dollar Lenders.

THE COURT: Good afternoon. On behalf of Gemini Trust Company?

MR. FRELINGHUYSEN: Good afternoon, Your Honor. Anson Frelinghuysen, Hughes Hubbard & Reed, on behalf of

Gemini Trust Company LLC. I am joined here today by Erin Diers as well.

THE COURT: Thank you. Good afternoon. On behalf of the Securities Class Action Lead Plaintiff, I think is how it's identified. Is there anyone here for those folks?

MR. PAPANDREA: Good afternoon, Your Honor. It's Mike Papandrea from Lowenstein Sandler on behalf of the Securities Class Action Lead Plaintiff.

THE COURT: All right. Good afternoon. Now I realize, as is often the case and always the case here, there are pages and pages of appearances. And I know a lot of those folks are listen-only. So, at this point I'll turn it over to the folks who think that they may need to say something at today's hearing. For appearances, I'm going to start first with the people who are in the courtroom, and then in a minute I'll signal and open it up to people who are on Zoom. So, first in the courtroom.

MR. SAFERSTEIN: Good afternoon, Your Honor. Jeffrey Saferstein from Weil Gotshal & Manges on behalf of Digital Currency Group. I'm here with my colleague, Furqaan Siddiqui. Thank you.

THE COURT: All right. Good afternoon. Anyone else here in the courtroom who needs to make an appearance?

MR. ZIPES: Greg Zipes with the U.S. Trustee's Office. Good afternoon.

THE COURT: Good afternoon. Anyone else here in the courtroom? All right. So, with that, I'll turn it over to the folks who are on Zoom. Anyone else who needs to make an appearance in the case who is on Zoom?

MR. DREW: Yes, Your Honor. James Drew, Otterbourg PC, on behalf of SOF International LLC.

THE COURT: All right. Good afternoon. Anyone else?

MR. UPTEGROVE: Good afternoon, Your Honor. William Uptegrove on behalf of the United States Securities and Exchange Commission. With me today is my colleague, Therese Scheuer.

THE COURT: All right. Good afternoon. Anyone else?

MR. AZMAN: Good afternoon, Your Honor. Darren Azman from McDermott Will & Emery, Counsel to the Genesis' Ad Hoc Group.

THE COURT: Good afternoon.

Anyone else? Counsel, I see your lips moving, but I think you're on mute.

MR. NEVE: Good afternoon, Your Honor. Brett Neve of Latham & Watkins on behalf of the Joint Liquidators, Three Arrows Capital. I am joined by my colleague, Adam Goldberg.

THE COURT: All right. Good afternoon. Anyone

else?

MR. WEN: Good afternoon, Your Honor. Dante Wen on behalf of Foundry Digital LLC.

THE COURT: Good afternoon. Anyone else? All right. I will issue the usual caveat that if someone who has not made an appearance at some point needs to speak, you'll just make your appearance at that point, and we'll take it from there. Obviously, happy to hear from anybody who needs to be heard from.

And so, with that, let's turn it over to Mr. O'Neal for a status of the case, recognizing that today is a continued hearing on the disclosure statements. And Mr. O'Neal, take it away.

MR. O'NEAL: Thank you, Your Honor. Sean O'Neal, Cleary Gottlieb, on behalf of the Debtors.

We have made substantial progress since the last hearing. And I wanted to outline a few points of progress. I guess first, yesterday we filed a plan and disclosure statement as amended reflecting a variety of agreements with the main constituents here resolving virtually all of the disclosure statement objections but for two.

In addition, we have reached agreement with the Official Committee of Unsecured Creditors and the Ad Hoc Group of GGC Lenders on the terms of a plan pursuant to a plan support agreement. That plan support agreement has

been the subject of many, many discussions, and I'm happy to say that we have just released signature pages on that, and we will be filing perhaps even as we speak a modified plan and disclosure statement that will reflect the agreements with the Ad Hoc Group and the Official Committee of Unsecured Creditors.

It's also our understanding that but for one reservation of rights that Gemini is also supportive of the plan, realizing that we have a fair number of issues that we are still going to be litigating with Gemini, but we've worked very hard over the past few weeks to come up with language in the plan and the disclosure statement that is kind of neutral to those litigations.

In addition --

THE COURT: Let me just back up.

MR. O'NEAL: Yes.

THE COURT: One question on that. Am I reading the tea leaves correctly to understand that the import of that is to try to get as much as possible to an agreed-upon disclosure statement and agreed-upon plan such that you can get to that and then turn to the litigation?

MR. O'NEAL: Correct. Correct. And it's really about the -- you'll hear more about this, Your Honor. But it's really about the reserve mechanisms and how we deal with the number of different variables that could arise out

of the multiple litigations that have been commenced between Gemini and the Debtors.

THE COURT: I can see the advantage of trying to litigate issues sort of in one time period rather than litigate a plan confirmation and then litigate again. So, that was certainly going to be the subject of some discussion at some point today. So, thank you for that update.

MR. O'NEAL: In addition, we have reached agreement with DCG, our corporate parent, with respect to amendments to the partial repayment agreement. We have just filed on the docket the amendment to the partial repayment agreement. There's a lot to it, but the main thing, at least from our perspective, is that we will receive approximately $200 million or a little over $200 million in value over the next few weeks and then full payment of all amounts sought in the turnover action by April 1st, 2024, and entry -- or we will be asking Your Honor for entry of an order akin to a confession of judgment, a consent judgment that we would ask you to enter. And then pursuant to the partial repayment agreement, we would forebear from exercising any execution rights on that judgment until April 1st, or if there are defaults under the agreement, until such time as those defaults.

THE COURT: All right. The is the notion that

would be a 9019 or would it simply be a more limited motion pursuant to a stipulation to enter a consent judgment?

MR. O'NEAL: Excellent question, the subject of much discussion. And what you will find via our filing a motion, the motion -- and this is really at the request of the Creditor's Committee and the Ad Hoc Group. We believe that we had the inherent authority to control that litigation, but they asked us to file a motion seeking approval of the actions that we would be taking in furtherance of it. And in any event, we would need Your Honor's signature on the consent judgment. So, you'll see that is a motion that will be filed in the adversary proceedings, and it's based on both 363(b) and 9019.

THE COURT: All right. No need to parse the precise levels of authority and sources of authority if everyone is on the same page. I get it.

MR. O'NEAL: In addition, we have our hearing coming up on the Three Arrows Capital settlement. I believe no objections have been filed. And I think that's on November 30th.

THE COURT: All right. And just to back up for one second. I made the joke about no need to parse authority. The most important thing I think is transparency so that everybody understands what's happening, why it's happening, and the justification for it. So, the filing of

a motion accomplishes that and so I don't mean to make light of that. That's a significant thing, and it sounds like you all have worked closely to make sure to very emphatically check that box. So, thank you for that.

MR. O'NEAL: Certainly. And, Your Honor, even if we hadn't filed the motion, we would have filed the partial repayment agreement, as we did with the original partial repayment agreement. Though we were not seeking authority for it, we filed it for exactly the reason you just said. We would like to have transparency in this case.

In addition, as I noted, we filed a number of different lawsuits with respect to Gemini, including a variety of causes of action relating to what we call the first tranche of GPTC that was allegedly foreclosed upon on November 16th, 2022 as well as counterclaims to the Gemini lawsuits and a motion to dismiss with respect to the second tranche of GBTC or what we call the second tranche of GPTC, which is GPTC that the Debtors hold but Gemini alleges were either pledged to Gemini or that they have a constructive trust over that. Obviously, we disagree with that, and that's the subject of the litigation. In addition, we have filed preference causes of action.

And all of that said, our main goal here is to still try to see if we can reach a global resolution with all of the constituencies. And when I say that I really

mean DCG and Gemini. We still haven't reached kind of a total settlement with DCG or Gemini. We would like to do that if we can possibly, and we're going to continue those discussions even as we're soliciting the no-deal plan.

One of the big successes of the plan, as Your Honor may have seen, is we filed also the distribution principles. The distribution principles are really the a creditor-driven process, the subject of intense negotiation over many months resolving an intercreditor dispute effectively between digital asset lenders and dollar lenders. And so, the distribution principles are really a settlement, a compromise among various constituencies, the dollar lenders and the crypto lenders. And so, we are very happy that we've achieved that settlement, and it is baked into the plan. And we very much thank the Ad Hoc Group and the Creditors' Committee for all of their work on pulling that together.

I would say that because this is Genesis, there is a new Ad Hoc Group that has formed. It would be not really a genesis hearing if there wasn't a new Ad Hoc Group. They have come and gone, and we've seen KME, and we've seen Brown Rudnik, and now we have a McDermott Ad Hoc Group. They have filed a 2019 statement. It's in redacted form. But we understand the members and we see the amounts that they currently hold, which is I think a little over $150 million

in claims.

So, I think with that, Your Honor, that's all the status report that I have. And I think -- I don't know if anybody wants to respond to that status report. Happy to allow others to do that. But I think next steps would be possibly a short chambers' conference if we can figure out how to bring in Mr. Azman, who I guess didn't realize the chambers' conference was going to be in White Plains rather than Bowling Green.

THE COURT: Well, that's where the case is. That's where I sit, just for future reference for any parties looking to show up to hearings in-person.

So, yeah, I'm not exactly sure how to do that. I suppose somebody could dial the person up on their phone and just have them listen in. That's fine. Again, it's important to make sure everybody who wants to be included is included. But since it's a chambers' conference, it's more informal. So, if you all want to work out something informally that might be faster than doing something informally, we all have phones that have speaker buttons on them. So, that may be a way to go.

MR. O'NEAL: And that is exactly what we were thinking. I did a little research and I saw that there was no phone in the chambers' conference room.

THE COURT: No, there is no phone back there.

That's because the origin of that is that used to be a jury deliberation room. So, that's why actually the seating in this courtroom is a bit off. What I always refer to as right field actually used to be the jury box. I had the pleasure of trying a jury trial in here many years ago. But that's why there's no phone in there, so none of the jurors could communicate with the outside world. But we'll make the best of it. And I know I signed a bunch of electronics orders, so we should have sufficient tech to get that person on the phone.

So, what I would do now is first ask if there's anybody who wants to chime in by nature of updates. And first I'll ask if there's anybody in the courtroom who wishes to chime in.

For purposes of Zoom, there are the various microphones. But that's also safe. You can do it -- right where you are is fine as well.

MR. ROSEN: Your Honor, Brian Rosen, Proskauer Rose, on behalf of the Ad Hoc Group.

I rise only to say two things. One, thank, as Mr. O'Neal did, the Debtors as well as the UCC in all of their efforts in connection with the plan and the disclosure statement and the plan support agreement, but also to say that in connection with the plan support agreement, I just want the Court to be aware that approximately $2.1 billion

worth of claims represented by the Ad Hoc Group have executed the plan support agreement and we're very happy with that result, Your Honor. Thank you.

THE COURT: All right. Thank you very much for that happy news.

Anyone else who wishes to chime in here in the courtroom as to status?

MR. AZMAN: Your Honor, it's Darren Azman from McDermott Will & Emery, again, Counsel to the newly formed Ad Hoc Committee that counsel just referenced.

Your Honor, I thought it might make sense to take just a couple of minutes to introduce our committee to the Court if now would be a good time for you.

THE COURT: Briefly. Because we do have a disclosure statement hearing that is on the calendar. And I appreciate you being here, but obviously you are joining a case in progress and so that's -- you join the case as it is as opposed to starting from square one. So, I will give you a brief moment to jump in, Counsel. So, go ahead.

MR. AZMAN: Thanks very much. Your Honor, my group consists of holders of bitcoin and Ethereum claims. That's in contrast to fiat and stable coin claims. As of today, our group controls more than 9,000 bitcoin and 1,800 Ethereum claims, and the group is continuing to grow.

This group formed just before Thanksgiving when I

was hired. And, Your Honor, although I am new to this case, I'm not new to crypto cases. I led the representation of the Official Creditors' Committee --

THE COURT: All right. Let me cut you off. I really do need you to get to brass tacks. We have a lot of people here. I'm very sensitive to the amount of time and money that will be spent in cases on professional fees, and I think people are trying to keep that to a minimum where possible.

So, I do have your objection, which does describe your views about the disclosure statement. And obviously we'll get to that in a bit. But again, I just wanted to get sort of a -- if you could give me a quick and dirty summary as to who you are, which I think you did, and what you're hoping to accomplish in this case that isn't covered by your objection.

MR. AZMAN: Sure. We filed a short disclosure statement objection. We've had discussion with the Debtors in advance of the hearing today to try to finalize language. We're not quite there yet, although I think we will be there soon. And once we do, we can submit that language to chambers. But I did want to spend maybe one minute just telling Your Honor what we're here for and we hope to accomplish if that's okay.

THE COURT: Briefly, again. I'm sorry. I jumped

in because I just got the sense, rightly or wrongly, that there was a longer speech that was going to unfold. And now is not the time for such a long speech.

MR. AZMAN: Understood, Your Honor.

THE COURT: Briefly. Go ahead, Counsel.

MR. AZMAN: Yeah, sure. So, in short, Your Honor, the crypto creditors' view, at least my group, is that they're getting the short end of the stick. There are two other ad hoc groups in this case --

THE COURT: Okay. So, here's what we're not doing. I have your objection. We're going to get to your objection. So, that's what your objection says, because I read it when it was filed on the 27th. So, after we've already had our first disclosure statement hearing. So, I read it and I'll consider it. And I get it from paragraph one, sentence one. So, we're going to argue that later. Now is not the time for that.

So, again, is there anything in particular other than what's said in your objection that you need to convey to me for purposes of -- again, we have a lot of people, interested parties in the case. So, I'm just trying to keep things as efficient as possible.

MR. AZMAN: Let's keep moving.

THE COURT: All right. So, don't worry, Counsel, we will get to your objection. Again, I read it when I

received it and we'll chat about it to the extent that the parties don't reach an agreement, or even perhaps if they do. So, that's fine.

Anybody else as to the status of the case briefly? If not, what I'm going to do is I'm going to take a short adjournment. We'll make sure to dial in the party to participate informally. And the idea, again, is that people will just chat about things that might be best left to a chambers' conference. We will come back and make a report of that so that nobody is left in the dark in terms of a summary. And the idea is that it's 25 after two. We will plan to come back in say 20 minutes once we take the break. And if it's going to go longer than that, I will pop back on and let you know. Again, I appreciate everybody's time and their patience, and I don't want anyone to feel like they're sort of stuck in the hall waiting endlessly. That's not the intent. So, we'll try to, as we just discussed, keep things moving.

So, we'll take a break for about 20 minutes. I would encourage folks who are on the line and Zoom to stay on the line. The idea is to keep this brief enough so that nobody has to go to the extra effort of jumping on and off. And I'll give you an update in 20 minutes if for some reason we haven't come back in full at that time. So, thank you very much. I am going to mute my line in the meantime, and

we'll talk to you all very shortly. And thanks again for your patience and good humor.

(Recess)

THE COURT: I am aware that somebody has made a request to record the proceedings. They were recorded by virtue of a transcript. But there is a ban -- well, there are rules about recording things outside the official recording by the court. And so, people are not permitted to videotape this. So, I just want to be clear about that. Again, I understand people might not know the rules. That's why I just wanted to hop on and let you know. Thank you.

(Recess)

THE COURT: All right. Good afternoon once again. So, let me start by again thanking everybody who is on the Zoom for their patience and good humor as we had a discussion in chambers.

So, as we discussed in the past, certainly want to make sure to give you a rundown of what was discussed. So, let me just pull my appropriate notes here. Give me one second.

So, the discussion was about the status of the case. And that took a couple of forms. And there are probably two main things that were the focus of it. One was litigation. There's been a lot of discussion about litigation. And after all this is a sort of confirm and

then proceed with litigation kind of plan. But there's also potential litigation about things relating to the plan such as the distribution principles. And of course, all these conversations about litigation happen in the context of this case, which are unique, as every case has its own unique set of facts. And among those things includes the lawsuit brought by the New York Attorney General that really is against the Debtor, parents, Gemini, a lot of the same folks about a lot of the same issues to this extent. It's about what the creditors, that is the investors, should get and how they should be made whole or as whole as they can be made in the context of either the bankruptcy or litigation in that case.

And so, in response to those comments I'll say now what I said in there, which is that it's always important to think about these things as rationally and without emotion as you can. It's important to -- the best way to do that really is to sort of think about litigation analysis.

I clerked for a judge who had tremendous success in settling cases that were getting ready to go to a jury trial because he always would try to put the emotional issues to the side and think about it how an insurance company like Lloyds of London would settle it; what are your litigation risks, what's your likelihood of success, what's the upside and what's the downside. And in this case,

there's an even greater context here, which is that settlements here may impact the lawsuit brought by the New York Attorney General's office to the extent there's overlap. I'm obviously not the New York Attorney General, and so I have no authority and can't speak for them.

But to the extent that the cases have a similarity in looking out after the investors, trying to figure out how best to handle things with the investors who here are creditors in this case will go a long way towards moving things forward. And litigation is expensive. It's also time-consuming. And once litigation starts in earnest, it takes on a life of its own. I can say that as someone who is a litigator and a federal litigator for many, many years before taking the bench.

So, I encourage everybody involved, as I said in there and I'll say out here, to think as clear-eyed and dispassionately about these issues as they can. Information is key so that you can make an intelligent assessment. And obviously anything I can do to assist, I'm happy to do that as long as the parties who are involved in whatever dispute agree that that would be helpful. Obviously, I am not somebody who can mediate disputes because I have to decide the disputes of, they come to me. So, I always stay away from talking with anybody about the merits of things except in the context of making rules. So, it's true now, it was

true in the conversation that we just had off the record.

The other second aspect of the conversation was talking about the alternatives that are available in this case. And I said in there and I'll say out here that it struck me that this is not the Debtor's preferred course of proceeding. They had another way of proceeding with another plan involving settlements of various kinds, and they didn't get the necessary creditor support. And so, they turned to what is a liquidation plan.

And that really means that the options for purposes of Chapter 7 -- I'm sorry, for purposes of Chapter 11 -- that is this kind of case. Once you reach the point where you're talking about a litigation plan, meaning we'll confirm, agree to liquidate, and then sue, there aren't a whole lot of other options unless the parties reach an agreement. And the only other options short of an agreement or this plan in some form or another involve something like a Chapter 7 liquidation, so a conversion of the case. And one of the things that the Debtors were supposed to do and did do in the context of the plan is include a liquidation analysis saying that if we liquidated in Chapter 7, how would people fare. And obviously, people can look at that for themselves. That's attached to the proposed plan.

And I'm not giving away anything to say that the Debtor's view that a Chapter 7 liquidation is much worse

because it involves additional administrative expense. It also involves the monetization of everything as opposed to in-kind distributions, which has, I am told, negative tax consequences as well as the problem of timing being somewhat more indiscriminate in terms of making those assets into dollars.

And so, I think that view about the Chapter 7 liquidation being not a preferrable option is shared by everybody, no matter how disparate a view they have on other legal issues. And so, I think that is important to keep this in mind when looking at things. Even if you put aside your views about the particular legal merits and facts of your particular issue, that the overall global context of the case and the alternatives, they are fairly narrow at this point. They are some form of liquidation plan which is what I have in front of me, a Chapter 7 liquidation, or some sort of settlement.

So, that's what we talked about. And again, I think it's important for people to -- bankruptcy is not something that is easy to necessarily see all the options and all the variations and all the context that comes into thinking about these things rationally. It can be very challenging for really smart people who aren't bankruptcy experts. There's no shame in that, obviously. But it is something to keep aware of. Because lots of smart people

will say I can figure this out. And you can, but you just have to be aware that there's a lot of things that go into it that might not be obvious on the first or even the second glance. And so, I certainly encourage folks to get as much information and dispassionate and expert advice as they can so they can make the best decision for themselves and an informed decision. We all know litigation is expensive. We all know that -- everyone agrees that this case we're trying to wrap up as quickly as we can. But I'm a blunt instrument. If people can't reach agreements, I will decide things as best I can under the facts and the law on whatever legal issue is presented to me. That doesn't necessarily result in as good an outcome as a settlement would for any particular party. But that's my job. And so, I will do it to the best of my ability as promptly as I can. But again, I encourage people to make sure to exhaust other options so that you feel like your litigation as a matter of choice rather than as a matter of a default path. That's not a good place to be.

So, with that, let me ask any party if there's something that we talked about off the record that I failed to mention and is worth highlighting.

MR. O'NEAL: Your Honor, Sean O'Neal, Cleary Gottlieb, on behalf of the Debtors. I think you covered it all, and we thank you very much for your time and that

excellent summary.

THE COURT: All right. There was one other thing we talked about that I think is particularly noteworthy for folks who are here who have been following the case individually. We've had some discussions over time about communications in the case by individual creditors. There was also separate and apart from that a motion to seal certain creditor information. I issued a ruling on that. That ruling complicated a bit, and by necessity, the way an individual might communicate with the Court about this case. And the idea is that the ruling about sealing concluded that I found in that decision that it was appropriate to keep certain information, identifying information of creditors off the public record. But that means if somebody individually wishes to be heard if they have counsel among the official committee or one of the ad hoc groups, then that person can speak for them. But if they don't or they wanted to communicate separately, how do they do that and what are the consequences of that.

And I understand that the Debtors put together sort of what I would say is sort of a working first draft after consultation with the committee about a way to handle that. And I think they are in the process of circulating that. I think I saw a copy just before or just as I came out here. And so, I took a brief look at it. And so, Mr.

O'Neal, anything that you or anyone on your team wants to say as to that?

MS. VANLARE: Your Honor, happy to describe some of the principles that we tried to -- we're happy to do that now.

THE COURT: You know what? Since we're on the topic now, I think it makes sense. So, I would either pull that microphone closer to you or grab the podium, whatever is more convenient for you.

MS. VANLARE: Good afternoon again.

THE COURT: Good afternoon.

MS. VANLARE: Jan VanLare, Cleary Gottlieb Steen & Hamilton, on behalf of the Debtors.

So, as Your Honor just articulated, you had expressed concerns several hearings ago regarding individuals who have chosen to contact the court with letters. They typically are pro se creditors. That's of course quite common in bankruptcy cases, but there is a challenge because at the same time we have an order in these cases sealing and confidential information. The typical process would be for those letters to get filed. And so, --

THE COURT: I just want to reiterate that point. The typical process is anything that's sent to me either by email or in a letter, I put on the docket. And so, that's the normal way that happens. And it's just automatic

regardless of the case. So, that's somewhat what presents the challenge.

So, Ms. VanLare, please. Sorry to interrupt.

MS. VANLARE: Mindful of those concerns, what we would propose -- of course subject to your views and input from creditors, because really we're just trying to streamline communications, make sure people have a way to participate in the case and at the same time, are mindful of the confidentiality concerns -- is a cover letter of sorts that can be submitted with a letter to Your Honor that basically allows the creditor to check off a box that says yes, I consent to my name being publicly filed, or no I do not consent. And that sort of makes it the creditor's choice as to whether or not they want to reveal their identity and have their communication filed or if they choose not to do that.

The other piece of this, we do think it's important that parties who are seeking relief in the case do identify themselves. And so, we -- and I'm speaking on behalf of the Debtors. Obviously, creditors may have other views. But we think it's important that those people seeking relief or who are opposing relief do identify themselves as part of the record. And so, we just -- part of the protocol is really to lay the --

THE COURT: To inform people that that's -- yeah.

MS. VANLARE: To inform people. Exactly.

THE COURT: That's the choice. And let me expand on that. As anybody who read the opinion -- and I certainly forgive you if you don't -- on sealings, that opinion made clear from the get-go that core proceedings are normally public. Transparency is very important in the bankruptcy court. It's a value we hold dear. And there is, notwithstanding that, a rule that says that under appropriate and narrow circumstances, that you can seal certain kinds of information. And that's what the opinion was about, where to draw that line.

But it is very clear, and I think it's consistent with how other cryptocurrency cases have been handled, that if you want to participate as a party in terms of asking for relief, opposing relief, or for example being a member of the Official Committee of Unsecured Creditors, that you are voluntarily willing to make your identity public because people can't litigate anonymously.

And so, part of the protocol I understand is to also educate and remind people so that they are very clear-eyed about the choice, saying in submitting this to the court, I understand I'm putting my name out there in submitting this letter and understand the consequences of that. Because some people may say, well, I don't feel strongly enough about this particular view that I want to

express that I'm willing to give up my privacy, and I will instead find another avenue among either the Official Committee or an Ad Hoc Group that I'm a part of to ask them to take my concerns into consideration.

So, Ms. VanLare, am I right in saying that you plan to circulate that among folks, or you already have recently and that is the idea, to maybe put it on presentment once you reach some sort of general consensus?

MS. VANLARE: We're happy to do that, Your Honor. We did circulate it to counsel to the Committee, and they've provided some feedback. We circulated it to Mr. Zipes. I know he had some concerns. We have not yet had a chance to circulate it to other creditor groups. So, I'm happy to do that and happy to put it before Your Honor on presentment.

THE COURT: All right. And for anybody who doesn't know -- again, highlights the fact that bankruptcy is a lot of things that are not part of anybody's normal life -- presentment means that someone presents an order to the court saying unless somebody objects to this order, we would like you to enter it. And so, the idea here is that Ms. VanLare on behalf of the Debtors will canvass with all the groups who were involved in the case to get their comments. And if we can get to an agreed-upon form of order, that addresses this problem, then we'll put it on for presentment and get it entered so that when we get closer to

something like confirmation and people might want to be heard, that they have a vehicle to do that. Anything else, Ms. VanLare, on this?

MS. VANLARE: On this issue, no.

THE COURT: All right. So, with that, I will turn it back over to the Debtors to pick up where we are in terms of the matters on for today's hearing.

MS. VANLARE: Thank you, Your Honor. I'll just stay at the podium because that's my cue as well.

So, in terms of the objections that are remaining, as Mr. O'Neal said, we've made even more progress since the last hearing on the disclosure statement. We're really down to two. One is the objection filed by SOF, and two is the limited objection that was filed by the McDermott Group.

What I would propose to do, Your Honor, is just to go through the objections that we've resolved and through our various discussions. There were some things we would like to put on the record.

THE COURT: Yes, please.

MS. VANLARE: So, we do have -- I have a statement on the record as well as Mr. O'Neal will make a statement on the record with respect to the Gemini objection.

THE COURT: And let me just pick up the thread. At the last hearing, we addressed a whole large number of objections, sort of ran those to ground, resolving a number

of those. And so, those are sort of off the table for purposes of today. So, we really are picking up where we left off. And so, with that, please proceed.

MS. VANLARE: That's correct, Your Honor. We are really down to a handful, and we further decreased that number.

So, I'll just make a general note. I think this reflects discussions with the U.S. Trustee as well as others that parties -- points that prior objections that parties made in their pleadings that really are confirmation issues. We just want to make clear that we agree that those are preserved, and everyone's rights are reserved for confirmation. They can raise them at the confirmation stage.

THE COURT: All right. And just to expand on that for a moment, the disclosure statement is about whether the disclosure statement and attachments, which include the proposed plan, provide adequate information for someone to vote on the plan. And that's what it's about. It does not mean that the Court is making a ruling on any of the particular provisions of the plan, saying that they are appropriate, not appropriate, approved, not approved. That's what a confirmation hearing is for. It's about whether -- what's in the plan. And what the Debtors are trying to do in this case is appropriately disclose so

people have adequate information.

MS. VANLARE: Thank you, Your Honor. So, next I would like to make a statement on the record regarding the distributions. You've heard a lot about the distribution principles, and this is a related point. What we would like to do is just lay out some of the principles that we intend to apply for the sake of transparency so that folks know what our intentions are.

So, first, as we have said in the past, we are focused on making in-kind distributions to creditors to the extent possible as this has been the overwhelming request by our creditors.

We have had numerous productive discussions over the last several months with regulators including the SEC regarding our plan for making distributions of digital assets to creditors.

For purposes of transparency, we would like to put on the record exactly what we intend to do. Our objective here is to create transparency and provide notice to everyone. The Debtors also want to avoid surprises later on in the process. And that's why we would like to lay out the key principles, as I mentioned, that we intend to use that are consistent with the proposed plan and disclosure statement.

And this way if any of the governmental actors or

anyone else has concerns, they can raise them in advance of confirmation.

As described in the distribution principles, our goal is to maximize in-kind and like-kind recoveries. To that end, we expect to make distributions of cash, stable coin, BTC, ETH, and Altcoin to creditors. Altcoin is a defined term in the plan. It means any digital asset that's not Bitcoin, ETH, or a stable coin.

In order to achieve our goal of maximizing in-kind recoveries, we may purchase Bitcoin and ETH to distribute to Bitcoin and ETH creditors.

At this point, we do not intend to purchase any altcoin or stablecoin beyond what we already have on hand to distribute to Altcoin and stable coin creditors.

We may also well excess stablecoin and altcoin if we have excess stablecoin and altcoin on hand beyond what would be distributed to stablecoin and altcoin creditors.

Right now, our best estimate subject to change is that we will have approximately $4 million in access altcoin and approximately $2 million in access stablecoin that we would sell.

As described in the plan and the distribution principles, the SEC would receive three days' notice and an opportunity to object before any purchase or sales of altcoin or stablecoin.

We may sell GBTC and ETH shares through a registered broker-dealer to make distributions to creditors of the proceeds of any such sales.

Again, it's our goal to be transparent. And that is the reason that we are describing all of this on the record today.

We have discussed this with regulators, including the SEC, and we have not heard any objections to this proposed course of action.

We do want to make sure that everyone is aware of the plan so that our creditors know what to expect going forward. And if anyone has any issues or objections with what we have described, we ask that you let us know. And of course, anyone who objects to this has the ability to do so in advance of confirmation.

So, with that, Your Honor, I would like to cede the podium to Mr. O'Neal, who will describe -- make some points on the Gemini objection and the resolution.

MR. O'NEAL: Your Honor, Sean O'Neal, Cleary Gottlieb, on behalf of the Debtors.

I'm about to read an agreed-upon statement on the record. It's agreed upon by the Debtors, Gemini, the Ad Hoc Group, and the Creditors' Committee. It's a bit long, so here we go.

On October 31st, Gemini objected to approval of

the disclosure statement because it asserted that the Gemini lenders were prejudiced by the terms of the plan including the proposed treatment of its claims, of two tranches of GBTC shares, which are the subject of the pending litigations that I mentioned earlier.

Since the initial continuance of the hearing on November 7th, Gemini, the Debtors, the Ad Hoc Group, and the Committee have worked in good faith to draft plan terms to preserve the status quo for the Gemini lenders and the Debtors pending the determination of the adversary proceedings filed by Gemini on October 27th and the counterclaims and separate claims filed by Genesis last week. These are the claims and counterclaims and defenses presented in adversary proceeding 23-01192 and 23-01203.

Although we were not able to reach final agreement on reserve terms prior to today's hearing, the proposed plan provides a mechanism for us to continue negotiating those reserves. And also, a mechanism to allow us to seek Your Honor's help in the event that these negotiations fail after a prescribed period. This language is in Sections 1(A)(10), 1(A)(1)(10), 4(A)(12), (A)(B), and then also 9(A)(8).

When we say preserving the status quo, we mean both reserving the legal rights and also preserving sufficient GBTC shares at the Debtors and Gemini as applicable for the range of potential legal outcomes in the

adversary proceedings.

The purpose of this statement is to indicate to Gemini and the Court that there is an alignment of purpose with respect to the reserve language and that the issues pertain only to the rather difficult negotiation of language that accounts for the various scenarios that would permit reserves to be released as legal issues are resolved in the adversary proceedings.

The disclosure statement includes a description of the following plan provisions and key principles. I'll just go through those briefly. And this kind of puts in kind of layperson's terms some of the things that we say more legalistically in the plan.

Following the effective date, Gemini Lenders will receive distributions at the same distribution rate as all other general unsecured creditors. If the adversary proceedings are not resolved at the time of any estate distributions, each Gemini lender will be treated as if the entire claim is unsecured despite Gemini's assertions that the claim is secured by collateral.

The dispute with respect to additional GBTC shares, the additional GBTC shares are the GBTC shares that the Debtors currently hold, which are the subject of Gemini's lawsuit alleging that they have a security interest or a constrictive trust. Sometimes we call that Tranche

Two.

That must be resolved as a condition to the plan effectiveness and before distributions to creditors can be made. This ensures that no creditor is prejudiced with respect to the distributions of additional GBTC shares.

To be clear, if the Debtors prevail in the adversary proceedings with respect to the additional GBTC shares, Gemini Lenders will receive distributions from any proceeds of the additional GBTC shares at the same distribution rate and subject to the same terms as all other general unsecured creditors. Moreover, the plan provides that this condition precedent cannot be waived without Gemini's consent.

The Gemini GBTC shares, that is the GBTC shares that Gemini holds and that they allege to have foreclosed upon on November 16th, 2022, which are the subject of various counterclaims by the Debtors, those will be reserved pending full -- or those will be reserved in full pending the resolution of the adversary proceedings related to those shares.

As provided for in Section 1(A)(1)(10) of the plan, that's in the definitions, the Debtors will work to reach agreement with Gemini, the Committee, and the Ad Hoc Group on the reserve terms promptly and by no later than 10 days prior to the voting deadline.

If the parties cannot reach agreement by that date, we may ask Your Honor for assistance in that.

As you can imagine, Your Honor, we all share a deep desire to have the various Gemini lawsuits resolved as soon as possible. This is especially true with respect to the additional GBTC shares that the Debtors currently hold. We believe that the disputes over the purported pledge and constructed trust can be resolved in advance of confirmation, and we will be asking Your Honor's assistance in helping us expedite that dispute.

We understand that with this statement on the record, Gemini is willing to withdraw its objection to the disclosure statement while reserving its right to oppose confirmation of the plan on other grounds.

THE COURT: Thank you very much.

MR. O'NEAL: Thank you.

THE COURT: Anything from Gemini?

MR. FRELINGHUYSEN: Good afternoon, Your Honor. Anson Frelinghuysen, Hughes Hubbard & Reed, for Gemini Trust Company on behalf of the Gemini Lenders.

For the past month, Gemini has been working with the Debtors, the UCC, and the Ad Hoc Group on language to create these appropriate reserves to maintain the status quo while these litigations are going forward. Mr. O'Neal's statement on the record was agreed upon and reflects the

history, tensions, and go-forward process. So, that does resolve our objection to the disclosure statement.

Unfortunately, we are not done, and we are not all the way there and we're not ready to support the plan all the way. So, I would just like to put a few reservations on the record as well so we're aware of what would come up at confirmation.

THE COURT: Well, today is not a confirmation hearing, so I'm just trying to avoid sliding into one. So, certainly to the extent that there are -- I thought the agreed-upon statement was agreed upon so that it freed the way to the disclosure statement approval. So, when you say you have some reservations, I guess I'm a little let's see as to where the reservations fit in the global resolution as to the disclosure statement.

MR. FRELINGHUYSEN: With respect to the disclosure statement, we are resolved on those. We had some issues that are going to push over to confirmation.

THE COURT: Well, that's -- all your rights are reserved in that context. So, I'm just trying to avoid turning today into a confirmation hearing which is, as you know, is sort of the regular rules of the road for bankruptcy judges when confronted with the disclosure statement hearings and the potential bleeding between the two. So, I really am trying to avoid getting into

confirmation objections. Certainly, I have your papers that were filed and are summarized. I know the debtor had a chart of various objections, and obviously all your rights of Gemini are preserved as to confirmation.

MR. FRELINGHUYSEN: Right. So, these would be issues that would come up after we were able to file our objection. These are issues that came up in the month that we were working on language to make the plan confirmable and something that we wouldn't be opposed to at a disclosure statement phase.

THE COURT: I confess I'm not -- I'm not quite sure how this is working. But go ahead. Because I don't know we're going to get through today if every agreement has a tail to it, meaning that we've got caveats to the agreement. And, frankly, I'm not sure how to consider that you're about to say but let me hear it and then we'll sort it out.

MR. FRELINGHUYSEN: Your Honor, I think we'll focus on one item that was added to the plan which pertains to a term referred to as Gemini insiders. This is --

THE COURT: So, is there something in the disclosure statement that's a problem? If it has to do with the plan, it's a confirmation objection.

MR. FRELINGHUYSEN: Well, this was added to the plan this morning, so there is no statement in the

disclosure statement about it.

THE COURT: All right. Go ahead.

MR. FRELINGHUYSEN: The Gemini insiders are Gemini lenders that also happen to be potentially insiders of Gemini that would be treated differently as a result of their status as Gemini insiders through the plan. There's just something that we agreed to in the -- we didn't agree to that term being added. It was added to the plan as part of our process on reaching agreement that we were able to be comfortable with today. But we will be opposing that at confirmation.

THE COURT: But is there something about approving the disclosure statement that waives your rights as to that particular provision?

MR. FRELINGHUYSEN: I don't think the disclosure statement --

THE COURT: So, I guess I'm trying to avoid going through the things that you have a substantive objection to for confirmation. Because, again, that's not the purpose of today's hearing. And I think we will be here much longer, because if you do it, then I can imagine there may be numerous other parties whose disclosure statement objections are otherwise resolved who may want to put things on the record as to confirmation. But we have a time and place for that. It's called the confirmation hearing.

So, again, if there's something in the disclosure statement that is problematic that doesn't provide adequate information or provides misleading information, let's get to it. But otherwise, if it's about the plan and nothing about approval of the disclosure statement will impair your rights -- and again my understanding is that you reserve all your rights to confirmation -- I don't want to get into that today. I suspect the plan, as these plans do, will continue to pick up provisions between now and whenever we have the hearing.

MR. FRELINGHUYSEN: Absolutely. And that's the only one I'll mention. There was a longer list.

THE COURT: Okay, fair enough. I know it puts you in a difficult position if it's added today. But, again, I think you can understand my point. It's not about your particular objection per se, but just the potential of having everyone note their confirmation objections now, which may not be the best use of anybody's time.

MR. FRELINGHUYSEN: Absolutely. Thank you, Your Honor.

THE COURT: All right. Thank you very much.

All right, next up?

MS. VANLARE: Next up, Your Honor, I would like to address the remaining objections which are unresolved as of today. That's first the objection filed by SOF. SOF is one

of the Gemini lenders. And then the McDermott Group.

So, taking those in order, the objection filed by SOF relating to the disclosure statement, I believe we've made a lot of progress, but unfortunately, we are not able to fully resolve it.

I would just like to say a few words about what we do disclose regarding recoveries for general unsecured creditors and for Gemini lenders and then I'll let Mr. Drew make his argument regarding --

THE COURT: Can we back up for one second? I don't know if -- you'll tell me whether this is a useful way to think about it or not. But certainly, what I think we did at the last hearing is you had a chart. And so, for each objection, you had identified the individual issues that were raised. And so, for SOF International and the objection at 874, I think there were one, two, three, four, five, six, seven such entries. And so, does it make sense to use that as a way to go forward, or not so much?

MS. VANLARE: I wasn't planning to go through that because we have added additional disclosures in response to Mr. Drew's comments and others. And so, I was just going to lay out what we --

THE COURT: What you think is left.

MS. VANLARE: Exactly. And then let him tell Your Honor as to what he believes is still missing. And then I

of course will absolutely respond as to why we think what we have is more than adequate.

So, in terms of what the disclosure statement contains both in the body of the disclosure statement as well as the exhibits, obviously as is typical, we have recovery percentages for various classes of creditors. However, we went beyond that given that we are dealing with digital assets. Those assets fluctuate in value. And so, we filed an additional exhibit to the disclosure statement which has the -- which we've entitled Illustrative Range of Recoveries. That exhibit seeks to convey to creditors the impact of the fluctuations and digital asset prices on recovery percentages.

Now with respect to the Gemini claims in particular, of course Your Honor is aware there is a substantial litigation, the Gemini adversary proceeding that's underway. That too will affect recoveries for Gemini lenders. There are lots of permutations, lots of possibilities. There is a first tranche, there is a second tranche of GBTC. There are multiple arguments made with respect to the first tranche as well as with respect to the second tranche. There is also the -- you know, prices can continue to fluctuate.

So, what we've tried to do is lay out recovery ranges so that people have an idea of what the recovery

percentages may be. We've also added additional language in the footnotes in the exhibit that basically say if Gemini were to prevail with respect to one of the arguments, the impact on recoveries for unsecured creditors could decrease by as much as 10 percent. So, we tried to add additional disclosures on those point. We have extensive discussion of the Gemini adversary proceeding in the body of the disclosure statement. We've laid out the arguments they've made that we've responded to. They've submitted a statement, they being Gemini. So, we have a lot of disclosures in prose in the body of the disclosure statement regarding the adversary proceeding and some of the arguments.

We've also added additional language specifically in response to SOF with respect to, again, what happens if Gemini were to prevail with respect to the GBTC shares and what happens with the appreciation in the value of the coin.

We really think that we've gone above and beyond in terms of providing adequate disclosure on these issues. We think that doing -- and really our approach through this process, Your Honor, which I think is probably the reason we've been able to resolve virtually every single objection, is that whenever faced with a request to include more disclosure, we've opted to include more disclosure. And really the only times we don't is if we think it's actually

misleading. And this is -- you know, we think we've added as much disclosure as we possibly could here. We think that some of the things that they've requested we added, but others we really do think would not be -- not only not required but would be confusing and misleading.

So, with that, I am sure Mr. Drew would like to describe what he thinks is missing, and then I would like to respond.

THE COURT: All right. Thank you. Mr. Drew?

MR. DREW: Thank you, Your Honor. That's all accurate, what Counsel just described. And I appreciate the changes that have been made. We filed the objection on November 1st, and there have been numerous changes since then. The disclosures are much more robust than they were before, so that's all appreciated.

The one thing that I am asking for is a table -- and I'll back up. There's a large amount narrative and prose about the Gemini litigation and treatment of the collateral and the values of it. I am coming at this from the perspective of trying to put myself in the shoes of the 200,000-plus Gemini creditors that are out there that are -- many of them are relatively small and may not have the time or inclination to study this document.

And what I think is appropriate is to include a table that shows the recoveries that includes both the

efficiency claim that is coming from the Debtor plus the collateral that is coming from Gemini, those two amounts totaled together in different scenarios that are possible. You know, plausible based on the litigation positions.

So, for example, what I believe is the -- okay, I don't know the merits of it. But a plausible scenario is that the foreclosure on Tranche One was proper. And in that case, the GBTC shares that are currently held by Gemini, which are currently valued at over $900 million would be I believe distributed for the benefit of Gemini Earn creditors. Those creditors would then have a deficiency claim based on a value of the collateral as of the petition date, though there would be a percentage distribution that deficiency claim, the two numbers would be added together to reach a total recovery. Collateral value plus deficiency claim recovery.

That number in that scenario is well north of a hundred cents. Okay? That's one scenario. And there are other scenarios. And I appreciate some of this is complicated to express and different possibilities. But I just think it's worthwhile for the Debtor's professionals and their financial advisors to lay out what does the plan mean based on the known values that we know in the different scenarios. It's not that -- you know, four or five different scenarios.

THE COURT: Are you talking about adding things to the range of recoveries or are you talking about something different?

MR. DREW: So, what I am proposing is a standalone schedule that addresses Gemini Earn creditors specifically. And it would have columns --

THE COURT: Well, so let me back up. Counsel, would you remind me where I can find the range of -- like the illustrative range of recoveries just so I'm looking at the right thing?

MS. VANLARE: Your Honor, I believe it's Exhibit E to the disclosure statement.

THE COURT: I have a number of flags, but that flag appears to have fallen off, so I'm not -- I flagged it for this reason.

MS. VANLARE: Give us a minute. We'll try to get you a page number.

THE COURT: All right. So, if I'm looking at the document that has 312 total pages, what page it might be? Or I can use the number at the bottom or the top.

MS. VANLARE: Try Page 287, Your Honor. I believe that should take you to Exhibit E.

THE COURT: All right. Thank you. All right. Right you are. Okay, great.

Mr. Drew, just give me a second to just look at

this in the context of your comment. Because one of the things that I'm always concerned about is in adding things, you begin to add things and then people really don't know what things to look at. And I think the point of the range of recoveries is to give people some sense of what they may be facing. So, I will say I'm more inclined to add something to that than I am to create something new unless somebody says I don't understand if the range of recovery says one thing and your table says something else what I'm supposed to glean from all this. So, that's -- sometimes more is nor more I guess is one way of saying it.

So, I do see in the context of that there is an illustrative range of recoveries. And there are footnotes. And then I do see that there are after that various response, one by DGC and one by Gemini, that lay out views about some of the issues that you're talking about in the sense of various views.

So, is there a way to incorporate your concerns in the context of existing documents rather than create another document which might be at war with some of these?

MR. DREW: Well, Your Honor, what I think this might be illustrating is that this document that you just pointed us to is confusing. This document I believe is only talking about the deficiency claim or recovery on whatever deficiency claim these lenders would have against the

debtor. And that's got a range in different --

THE COURT: Well, I'm taking it at face value. I think if some creditor looks at it, they'll say illustrative range of recoveries. I don't think they will view it as so limited. So, it doesn't say illustrative range of recovery for deficiency claims. So, again, my thought is I would rather have one document. If it needs tweaks for purposes of completeness and/or accuracy, I'm fine with that. I just am loathe to have competing documents that tell a different narrative, even if it's a numerical one, that just may be more confusing.

So, Ms. VanLare, any thoughts?

MS. VANLARE: Your Honor, perhaps I can clarify what I believe that Mr. Drew is asking and then I can explain why it is we think it's inappropriate to include.

So, as I mentioned, there are lots of arguments that are part of the Gemini adversary proceeding. One of them has to do with the foreclosure, the alleged foreclosure on the first tranche. Of course, we dispute that there should have been a foreclosure. There is a dispute as well with respect to if the court were to find that the foreclosure was appropriate, the -- if the Court were to find that the foreclosure were appropriate, there would then be a valuation of the GBTC shares. That valuation would then be as of the date of the foreclosure. As a result,

there would be a deficiency claim that Mr. Drew has referenced.

Now, if the foreclosure -- if the Court were to find the foreclosure had not occurred, the value of the GBTC shares, which of course has appreciated, would then be measured as of today's date. So, that has an impact on the deficiency claim. Again, that's only one scenario within a complicated set of potential outcomes of the litigation and of the issues.

THE COURT: So, my thought is you've got an illustrative range of recoveries. You also have a Gemini response that on the first page talks about challenging the validity of the foreclosure and talking about the different tranches. And so, my thought is that I'm concerned with creating a separate document. But if there's something that can provide additional information as to what a creditor might recover or not recover, whether it's adding a note to the illustrative range of recoveries or an agreed-upon addition to the Gemini response, which I know is responding to something else. So, I realize that I'm sort of identifying the problem and -- I'm probably doing some violence to the architecture of all of this. But I'm open to suggestions.

MS. VANLARE: Your Honor, we tried presenting tables, we presented words. We included words. The problem

is that Mr. Drew would like us to include what he calls recoveries that are really not recoveries under the plan. That's the issue we have. Basically what Mr. --

THE COURT: So, I can help on that. I don't want to get stuck in nomenclature because, frankly, I don't think that folks who are creditors are going to be so inclined to think of it that way. I think we could stick in either a note or somewhere else in the existing documents that makes clear that there is a range of monies that may become available to these particular creditors under these circumstances depending on the outcome of the litigation. Maybe it references the Genesis -- I'm sorry, not the Genesis, the Gemini response. But I don't want to add another table. I would rather have one stop shopping because there's so much information in this that there's a real -- again, I think we're on the same page as to that, that more information might be confusing.

MS. VANLARE: So, Your Honor, again, we've added language to the disclosure statement. I think the issue is that Mr. Drew would like us to contemplate as to what recoveries may be in the event that the foreclosure value is fixed as of the foreclosure date. There is then a deficiency claim.

THE COURT: Right.

MS. VANLARE: We provide recoveries as to the

deficiency claim. What we don't do is say, okay, well, Gemini will then be holding GBTC shares that are worth substantially more that we think that they should then also distribute to the Gemini lenders. We don't know how or when they may distribute them. That may be an additional source of value, but it is not a recovery under this plan. So, we think --

THE COURT: But in the interest of full disclosure, since this is a confirm a liquidation plan and then sue, I do think it is consistent with the notion of educating creditors to at least let them know how the wrinkles might affect them. But again, I think there's a danger in doing it in a separate -- we already have several narratives in here in several places. So, I would encourage -- and I'm happy to take a break and we can convene as early as tomorrow again to talk about it. But I would think that there's some additional language -- and we can stay away from language that forces someone to say whether it's a recovery under the plan or it's not a recovery under the plan. Saying there's litigation, litigation could operate several different ways. If it goes this way, this is what the impact will be. There will be additional money and Gemini will have to decide what to do with it. If it goes another way, this is what it looks like.

MS. VANLARE: Your Honor, we have that language.

THE COURT: So, where is that?

MS. VANLARE: So, it's in the disclosure statement on Page -- I have it as Page 19. Let me just check if that's accurate. Page 18 of the disclosure statement, which is Page 33 of the file.

THE COURT: Give me a minute to get there.

MS. VANLARE: Sure.

THE COURT: All right.

MS. VANLARE: So, Your Honor, this is a section that talks at length about the Gemini Lender claims. And again, in addition to all of the disclosures, we talk about, you know, this is kind of in the form of a Q&A. How will resolution of disputed issues with Gemini affect distributions on such claims? And then we say -- and this is kind of middle of the first paragraph. This is language we added specifically in response to Mr. Drew. And I'll just read it.

"It's the Debtor's position that in the event Gemini were to prevail in the Gemini adversary proceeding with respect to the Gemini GBTC shares, any appreciation in the value of the Gemini GBTC shares from the date of the purported foreclosure until the date of any monetization transaction of such Gemini GBTC shares should accrue to the benefit of Gemini lenders.

"In this scenario, distributions to Gemini lenders

from the Debtor's estates on the unsecured portion of their claims would be equivalent to distributions received by other similarly situated unsecured creditors. However, in this scenario, Gemini lenders would also receive from the Gemini distribution agent their pro rata share of the appreciation in value, if any, of the Gemini GBTC shares. We've done this. We've described what would happen in this scenario.

THE COURT: So, let me interrupt you for a second.

MS. VANLARE: Of course.

THE COURT: So, Mr. Drew, is your complaint that there is no numbers associated with this narrative?

MR. DREW: Your Honor, respectfully, I do appreciate the narrative. It was added at my request, and I sincerely appreciate it. What I'm saying is that the vast majority of people won't find and understand this language.

THE COURT: But the longer we make this, the harder it will be for anybody to find the language that applies in the first place. So, every judge I know on the court has a debate. At what point do these things become so long that we don't ask somebody to bomb it back to the stone age and write a 25-page pamphlet? And we don't do that be we recognize there are so many nuances and complications and resolutions that are baked in here that we could do a lot of damage to things.

But as it gets longer, it gets harder to find what applies to you. So, as I said, I much prefer to add to existing narrative than to create a separate document. I don't -- given that language and the table, I don't see -- and the Gemini response, all of which -- that also references the foreclosure issue.

So, I don't see a reason that it would be beneficial to create another document out of whole cloth. So, I am open to if you wanted to monetize some of these thins if there are -- putting aside who wins and who loses, if things go this way, this is how much money is at stake, that could be added to this narrative, or there could be a footnote to the range of recoveries that the recoveries contemplated are separate and apart from the recoveries that might otherwise be obtained by these creditors in litigation as described and blah, blah, blah. And that implicates so much money based on these issues.

So, I think there are several ways to do it, but I don't want to create a separate document. It was hard enough to find this. I read this, what Ms. VanLare mentioned, but I'll be damned if you put a gun to my head if I could have found it as quickly as she did. So, that's the challenge. And I don't think we're doing creditors any favors by making it longer and then trying to figure out how to harmonize some of these things.

MR. DREW: Understood, Your Honor. And I don't want to belabor this. I think your comment earlier was spot-on that creditors are not likely going to view it as recovery from the debtor as distinct from recovery from the collateral. They only care what they're getting. I think it can be done as a part of the table that's there.

THE COURT: Yes. So, I think you could put in a note in the table. And if you want to also make a cross-reference to the description that's in this Section N on Page 18 for a more full description of the foreclosure issues and how they might affect your recovery, please see. I'll leave it to you all to sort of wordsmith it and figure out how you want to do it.

I understand that as I first heard your comment, that there was an importance in putting some numbers to the narrative. I think you can do that, and I think you can put in sort of a placeholder and make a cross-reference, which means we won't need to make this a page longer or two pages longer.

MS. VANLARE: Your Honor, I will just note. We've asked for numbers; we've asked for prose. We have not received it. We've really tried to go back --

THE COURT: I get it. I'm making a ruling. So, we're good. I understand he's looking out for his clients, and I understand that you are concerned about overwhelming

people with paper. I think we've long passed and cross the Rubicon on that. So, I don't want to go any further across the Rubicon. And so, I think we can add something to the table, the illustrative range of recoveries in a note. It sounds like you would be amenable to that.

MS. VANLARE: Your Honor, the issue is I don't know what it is we're adding. That's my fundamental -- I don't know what is being --

THE COURT: So, here is what I understand based on the statement -- and you can straighten me out if I'm wrong -- is that what Mr. Drew talked about was specific numbers that might become available depending on the outcome of the litigation and the different ways of measuring who has what rights and what impact that would have on these folks. And I think we can -- we do need -- if Mr. Drew wants numbers, we need numbers. I think the description of it narratively is already on Page 18. So, I get it. But to the extent he is concerned that somebody would look at the illustrative range of recoveries and feel like there's something missing there, you could put it in a note, a cross-reference. But I am largely agreeing, Ms. VanLare, I don't want to make it longer. I do not want to add a separate document.

So, I'm going to overrule the objection to the extent that it seeks that. I think there can be a little tweaking at the margins. And, Mr. Drew, I urge you to get

some modest change, a sentence or two, a note or two to add to, whether it's the illustrative range of recoveries or a note on Page 18, and I think we should be good to go.

MR. DREW: Thank you, Your Honor.

THE COURT: All right. So, what I would expect is you can get that to Ms. VanLare. And then if some reason there is a dispute about it, you will let me know. But again, this is really just conveying I think what you already described and what Mr. Drew described without making the document any longer.

MS. VANLARE: We're happy to consider again. We've been asking. If it's a simple sentence, we're happy to add it so long as it's accurate.

THE COURT: It has to be accurate. And again, it can stay away from anything that might be a third rail, whether it's a recovery under the plan, we don't need to say that. Additional money may become available, you know, I'm sure you can wordsmith it in a way that we don't need to characterize it. It will be as a result of the litigation outcome. So, I'm sure you can say it more eloquently than I have.

MS. VANLARE: Okay.

THE COURT: All right. Mr. Drew, anything else?

MR. DREW: No, Your Honor. Thank you.

THE COURT: All right. Thank you very much. So,

with that, I will -- I have made a ruling on the remaining issue as to the SOF objection and consider that resolved.

And then there was one.

MS. VANLARE: Yes, Your Honor. So, that leaves the McDermott Group objection. I think we were trying to -- it was a limited objection obviously filed quite late. We were trying to work with the McDermott Group to try to add some limited language. We weren't able to get there by the hearing today. I think we would be amenable to including a sentence or two that basically notes that there was a McDermott Group holding X number of BTC, Y number of ETH shares that we received from Mr. Azman --

THE COURT: Well, I don't know if you need to make it the McDermott Group. The idea is that there's some view that the folks who are dollar crypto claims have different rights and including, but not limited to -- and frankly, I don't -- at first blush it didn't immediately pop to my mind how this and the safe harbors will combine to result in a particular result, but we'll cross that bridge when we come to it. But I think the idea is you can invoke whatever the issues are, Safe Harbor contracts of 562 and the date of valuing the claims.

And so, do you have a thought where that would go?

MS. VANLARE: I don't have a specific thought on the location. I think we're fine with that. I think where

we do have an issue is getting into, well, if this happened, what's the impact on the plan, what's the impact on creditors. Because then we get into a back-and-forth as to the merits of the position. So, I think if we limit it to what Your Honor just described, that would be fine with us subject to obviously the Committee and the Ad Hoc Group and others. But as far as placement of that...

THE COURT: Well, I think we can say that the legal issue identified here in terms of the date of valuing the claims will affect recovery and that that's a legal issue to be determined at -- again, I'm sure there is a more artful way to say it. And I think I just stepped on one of those third rails. So, I will stay away from it.

I think there's a way to identify the legal issue and they say it will impact these particular creditors.

So, Mr. Shore, do you have a particular -- you want to bail me out with some particularly precise language?

MR. SHORE: Sorry. I would actually like to hear the objection and then I'll respond. I mean, if there's anything else that counsel wants to add, and then I can respond to it.

THE COURT: All right. Mr. Azman, you have the floor.

MR. AZMAN: Thank you. Good afternoon again. It's Darren Azman. I've got a sore throat, so I'm going to

take a lung break real quick.

So, Your Honor, again, we represent a group of crypto holders. Not fiat, not stablecoin. The Court knows what our previewed plan objection is, so I'm not going to cover that again. We are seeking to have a different valuation for crypto creditors in the case.

The reason we filed the objection to the disclosure statement is because this issue has the ability to impact creditor recoveries, in particular creditor recoveries by a magnitude of hundreds of millions of dollars --

THE COURT: What I need from you is the sentence or two that you want to add. So, that's what I need from you.

MR. AZMAN: Sure. It's actually in our objection. It's very short and sweet. The problem that we had in conversations before the hearing, I think actually the Debtors and us are aligned. We had received some initial language from them that we actually signed off on with one word change. And quite frankly, if they were okay with that, we would be good. It sounds like there are other parties, whether it's the Ad Hoc Group or the Committee, that basically added another paragraph getting into the merits of why this is the wrong argument, why we're going to lose, what all of the ramifications are of this. And when

you get into the back and forth, well, we're going to want to add our say in our report.

THE COURT: So, here's what I would suggest then. And you're right, I forgot you have language in Paragraph 9 on Page 6 of your pleading at Docket 982. I would think that you say you intend to object to confirmation on this basis. And then I think if there are parties that want to say they have a different view, they have a different view. And then resolution of that dispute will impact -- will impact I guess the value of the claims. I'm sure there is an artful way to say that. But I agree we should not be litigating the objection here. And so, at the same time, by identifying yourself particularly and saying that you have this view, then people will feel like they need to respond and say they have a different view. So, I think at this point we can probably say you have one view, somebody else has another view, and it will get resolved and it will have an impact.

Certainly, anybody who is motivated will know that you are the party that has made this argument and that the other parties who have identified themselves as having a different view, and if people want more information about the nuances of all that, they know where to find you.

So, Mr. Azman, is that the kind of thing that works for you?

MR. AZMAN: Yes, it is. And we'll basically look at the language that they want to put in there. We'll put our position in, they'll put their position in and --

THE COURT: No, we're not doing that. This is to -- that's what today is for. So, we're going to deal with that shortly. I'll make myself available after I made a ruling and people are going to get language on it. But we're not -- this isn't an open issue.

So, Mr. Shore, let me hear from you. Let me back up. It is an open issue, but it won't be by the time we're done. Because then I'm not doing my job.

MR. SHORE: Thank you, Your Honor. Chris Shore from White & Case on behalf of the Official Committee. I would like first to maybe frame the issue. Second, to correct the record, and third, to address this issue of what should and should not be disclosed.

First, framing the issue. Because it's obvious it is a late pleading coming in and it is written largely to crypto creditors. And so, I think we need to frame the issue because some people are more sophisticated than others.

If you think about a general unsecured creditor, the one that the Committee represents, they had a master loan agreement with the Debtor. As of the petition date when the clock stopped, some had cash on deposit, some had

bitcoin on deposit, some had Ethereum on deposit.

And one way to look at the world without talking about what the appropriate way is, one way to look at the world is when the clock stops, everything gets converted to U.S. Dollars and that creates a claims pool. And that claims pool gets fixed on the petition date. And then people can understand, okay, here's the claims pool, here are the asset values, here are my recoveries.

Another way to view the world, which the committee has heard over time, is that the claims of different holders depending on what they had on deposit will float over time. So, as Bitcoin goes up, up, up, up, the claim goes up, up, up, up. And conversely if Bitcoin went down to $10, people would argue that in fact to satisfy a 10-bitcoin claim, all the Debtors have to do is go out with $100, buy the claims, and get rid of them that way.

There is potentially a huge swing in recoveries. That's the issue that we're talking about here. And when we talk about distinctions or disagreements between dollar holders and crypto holders, that's the issue when we talk about valuation data. An ironically, the objection that's being made today is creditors need to be told in order to determine what their recoveries are that we can't determine what your recoveries are until we know what the prices are of these various coins either at the effective date or the

date that the master loan agreement is either rejected or terminated. I'll come to that in a second. That's the issue.

I want to correct the record because it starts out in the first sentence that crypto holders have been marginalized in the case. And it goes on to describe that among others, the committee has not heard those voices. That is not an accurate representation of what happened. And we can forgive counsel, who just joined on Wednesday before Thanksgiving.

But the Committee has been out from the beginning of the case addressing this issue, listening to concerns of creditors, hearing out individual creditors, speaking to them patiently about the issue and describing the issue, talking to their counsel, reviewing memoranda, and going through these issues. There are a myriad of issues that come out of how we view the pricing, both economic, legal, regulatory, all sorts of issues.

There was a proposal months ago. One way to do it is just to say, you know what, let's all vote on the plan. And if the Court says it's petition date pricing, everybody is in on it. And if the Court says it's floating pricing, we're all in on it. And creditors were like, no, we don't want that. The Committee heard creditors holding billions of dollars of claim, that they would rather try to resolve

it.

So, what has happened over the last six months is an open discussion between the parties on various sides of the debate as to how that issue should get resolved. What you heard today is creditors holding billions of dollars of bitcoin and Ethereum have said we would like to settle it. That settlement comes in the form of the plan, the plan which has a provision that says we're going to calculate your claim as of the petition date, but also has distribution principles as to how that plumbing is going to work. So, that's what's here today, is a plan going out which settles the issue of petition date pricing, floating claims. It's being proposed, it's embodied in the plan, it will be subject to Your Honor's review and the 9019 standards that will go with that.

We have a group who participated in those negotiations largely who has come to a different view and wants to press the issue in front of the Court. We don't have to address that today, but that's the issue that is framed.

Now, when we talk about the specific disclosures and why you said the third rail, if you look at Paragraph 9, I don't have a problem with the first sentence. I don't have a problem with the second sentence.

The third sentence, "Currently the plan values

such claims as of the petition date," is incomplete. Because it values the claims as of the petition date, but then resolve the issue with respect to distribution principles.

The next sentence, "If this happens," I call this the easy button disclosure. It's all going to be simple. If the Court rules in our favor, then this happens. As we've all learned in this case, having been here for months now, there is no easy button. When I saw the drafting going on, it's almost impossible to draft the permutations. The first thing is if the court rules in their favor, then the plan isn't confirmed.

Now, one thing that could happen is we all go back to the drawing board. The other thing that happens is the court has to determine whether the Debtors try to modify the provision, is it a material modification. If it's a material modification, do we have to resolicit? If it's not a material modification -- and then we go down the next thing. If counsel convinces you, it's not a material modification, which seems to be the opposite of the point that's being made, then we have the sequalae to it. Recognize that the argument that's being made is the master loan agreement is either a forward contract, commodity contract, securities contract, or general unsecured loan depending upon what the currency was or not currency was on

deposit at the time. If it turns out that the -- we have to start making all the disclosures of why people want to settle this issue.

So, for example, if the Debtors -- if the ruling was this is a forward's contract and the Debtor rejected it, that would convert the claims at the -- maybe -- at the current bitcoin price, but it would also be a prepetition dollar claim. A prepetition dollar claim does not receive an in-kind distribution. They get paid in dollars.

And we work our way down through all the permutations. The disclosures aren't happening. There is -- you said it last time, and I'm going to repeat it. There is one plan on file right now. It is one that settles the issue. People will have their right to come in and say that the settlement is not fair, that they have a 10 percent chance of success on the issue of whether the claim should be dollarized, or it should be a floating claim. And they have their rights to pursue those. But what's in front of the Court right now is a plan that resolves those issues.

So, we're not trying to step on any third rails. We're not trying to disclose or tip the scales in any way. The creditors have said we want to resolve this issue, $2.1 billion of creditors have said they want to resolve this issue. We have 150 who said they don't. But it's not going to play out in the context of the disclosure statement.

So, I think the first two sentences are fine. And then I think the next sentence should be, and this dispute is proposed to be settled under the plan. See section whatever-it-is for the settlement, for a description of the settlement.

THE COURT: All right. Mr. Azman, I will give you the last word on this.

MR. AZMAN: Well, I didn't come prepared for my speech. I didn't think we were addressing the merits today. But I think that Committee counsel has --

THE COURT: Well, in fairness -- well, I thought you might say something like that. But in fairness, you have to recognize that it is important to have an accurate record and recitation of how we got here and that I recognize you just got here, but again, I have to make sure -- I'm happy to include something, right? That's what today is about. But I do have to make sure that folks have a full understanding of the variety of things that have happened and the history that's led us to where we are and the complexity of that history. So, frankly, without Mr. Shore's earlier part of the speech, his payoff about the third sentence would not have made a lot of sense necessarily to people listening in about why the statement about the plan values of claims as of the petition date, that being incomplete.

So, here's what I would propose. The first two sentences are fine. I think the third sentence should say something like the plan embodies a settlement between various parties that will be identified that values such claims as of the petition date resolving the recoveries using essentially agreed-upon distribution mechanism. And then I think the next sentence would say something like the crypto creditors' group objection if sustained would impact the value of their claims, but that the precise impact is difficult to determine without further litigation. And so, -- but you could probably put in something that says that -- I mean, it's clear that if you value it at a different date, that in your view that -- and so maybe you just say it's difficult to predict, but your group contends that those claims will likely be entitled to a greater recovery and take it from there.

MR. SHORE: Yea, I would -- I think there does need to be a little bit in the middle that says if this objection is sustained, and the Court does not require re-solicitation of a new plan, then -- right? Because that's why I rose before. I don't think you have recoveries under this plan if the plan is not confirmed. We could talk about what your recoveries might be under some other plan, but that's not this disclosure statement.

THE COURT: Well, I think that if there is a

sentence that says the impact on the claims is -- it will impact the value of the claims in a variety of ways that can't be predicted, that includes the re-solicitation. And maybe there's a sentence after that that says this crypto creditors' group thinks they would be higher, but other parties don't agree with that assessment.

Because I agree that there's a lot of things that would have to happen in the context of this. And really, we're not -- the prediction business is very dangerous. So, Mr. Rosen?

MR. ROSEN: Yes, Your Honor. Brian Rosen, Proskauer Rose, on behalf of the Ad Hoc Group.

Your Honor, I'm fine with that. But I realize all of the things that could unfold. And the one that is most important to me and should be most important to every crypto holder -- and Mr. Shore brought this up about payments and dollars, is the need to include something like including, without limitation, the imposition of significant tax payments which shall become due as a result of that they are asking for. I mean, those are not the exact words. But that piece to me is critically important for crypto creditors to know that they're going to get hit with a significant tax liability that must be paid even before they receive ultimate distributions pursuant to a plan. Because it becomes due immediately upon that event occurring in the

year it becomes -- in the year that it actually occurs.

If distributions are two or three years down the road, that's irrelevant. They have to pay that immediately without distributions that they have received or won't receive. It's significant.

THE COURT: So, Mr. Azman, what's your view about that issue?

MR. AZMAN: Well, I haven't really had any chance to express any view yet. So, maybe we can back up a few steps.

THE COURT: Well, Mr. Azman, I have not labored on the point that you have arrived exceedingly late to the party after we have already had a deadline long since passed for objections to the disclosure statement after, in fact, we had a lengthy disclosure statement hearing. And then we had today to finish up on the already filed but not yet resolved disclosure statement objections, of which your clients were not one of them. So, you can pardon me for giving you a little bit of a shorter leash. That's the way it goes.

So, the alternative is to not be heard at all. And frankly, there's plenty of authority that permits me to completely disregard your objection.

Now, the Debtors haven't asked me to do that. I think they've made the right call in doing so. Because I

think that's not the right result. But we all know the rules of the road. When you file something like this out of time at this posture, you are sledding uphill.

And so, with that said, I would keep those comments to yourself.

So, what's your view about the tax implications?

MR. AZMAN: We disagree with their view on the tax implications. And a number of the things that the Ad Hoc Group and the Committee have asked us to include, which is the language that you don't have in front of you. We went back and forth before the hearing. There are a number of things that are scare tactics. They are designed to scare certain creditors into thinking that our position is not only wrong, but if successful, will not actually result in a gain for crypto creditors. Your Honor, we have $2 million of crypto creditors who have left the group that is pushing for this and had been part of the discussions for a year and disagree. And so, that was the back and forth that I was --

THE COURT: Well, I know. But they also decided to make that decision after we already started the disclosure statement hearing earlier this month. And there are consequences to that.

MR. AZMAN: Completely fair, Your Honor.

THE COURT: So, again, I know, Mr. Azman, that's not -- you're taking the case as you find it. I know that's

not the way you prefer to be. I get it.

So, here's where I am. I am at a bit of an impasse. Because what I'm hearing is a complicated narrative from all sides, but everybody has a different complicated narrative. And I can't let this particular narrative hijack the disclosure statement.

So, I am inclined to ask the Debtors, who at a certain point are just monetizing the value that they have, to write something that says one of the issues in connection with the plan is when to value the claims. And this is the subject of ongoing litigation. There would be various winners and losers as a result of that. The litigation is complicated, and its impact on the plan process would be complicated. And so, then make a reference to the various different parties' recitations of their rights and the implications. Because if we start putting this in the way -- this is going to be the result, no, this isn't going to be the result, it's going to be confusing as all get-out to everybody who doesn't have a lawyer. And that's a bad thing. And I think we can just reference parties are well represented in the case.

And so, now I know there's some language already of this ilk in the disclosure statement, so it may be that you can massage this or add a few sentences or a word or two, and maybe you add a reference to various pleadings that

have been filed where everybody has their full-blown opportunity. But it's not -- I don't think it's wise and it's a fool's errand I guess to try to encapsulate all those different views and outcomes in a paragraph here, because it won't be a paragraph.

MR. O'NEAL: Your Honor, Sean O'Neal if I may.

I think what you've just outlined is a good suggestion which the Debtors can handle. I think we would want to add to it that we are trying to resolve these complicated issues through the distribution principles. Because I really want people to know that that's what we're doing here.

THE COURT: That's fine. And I do think that's what, as I understand it, why I haven't seen the distribution principles up until now, because it was the source of an ongoing negotiation. I know not everybody is happy with the results of the negotiation, but that doesn't mean that that negotiation didn't happen.

So, I would ask you then to find appropriate references where there is a full-blown statement of various parties' view about the litigation and how it impacts the people that they represent, and we can put that in a footnote, in a very long string cite, whatever it is. And then if you actually have a link, then people could find those things and read them to their heart's content.

MR. O'NEAL: This has not been litigated in this case. There's been no briefings on this case, so there's nothing to point to. I think what we will do is a very high-level description of what -- as what you've just said. Because if we start going into all the details and the arguments and the counter arguments, of which they are many and they are complicated, it will be for many, many, many pages.

THE COURT: So, let me ask. There are certainly adversary proceeding complaints that we could cite, but those present one side of the story. Is there a place to cite to?

MR. O'NEAL: There's actually nothing with respect to this issue.

THE COURT: No, there isn't?

MR. O'NEAL: This issue --

THE COURT: Oh yeah. I'm sorry, you're right. You're right.

MR. O'NEAL: We have never brought this issue to Your Honor in any pleading. We have tried to settle it through the distribution principles.

THE COURT: So, what are you proposing then to do, Mr. O'Neal?

MR. O'NEAL: Really just what you've just said, I think, which is as I heard it -- I kind of tried to write it

down -- one of the issues in this case is how to value claims, particularly digital asset claims. This is the subject of ongoing discussions and could be litigated at confirmation. Any decision on that could impact or would impact the plan and potential recoveries. And then say that the distribution principles have been drafted among key stakeholders to try to resolve this issue and to reach a reasonable compromise and settlement which will be presented to the Court as part of the 9019 request at confirmation.

THE COURT: All right. I would add one thing to this that is I think Mr. Azman's point, which is to say that when you say it will impact the valuation of the claims, you could probably add another clause or sentence that says based on the rise or fall of the prices of -- and list the assets that are implicated. And then that way I think the average creditor will have a sense of what that means without spelling out the exact numbers. So, if this crypto asset has gone up later in time, earlier in time, people will get that. And if it's gone down, they'll get that as well.

MR. O'NEAL: I will do that. We will do that.

THE COURT: So, Mr. Azman, does that answer the mail in terms of getting your clients essentially the gist of the impact?

MR. AZMAN: I think so. I just want to clarify.

I think your concept on the last point is that we can have a sentence in there that -- I'm not asking for specific dollars. I agree with you, that's too complicated. But I think conceptually what you're getting at is that if we have our way, that will result in --

THE COURT: Well, I don't know. See, that's the thing. The result, we don't know. But the idea is why are people fighting about it. They're fighting about it because certain crypto assets went up and certain -- and that's why they're fighting about it. And people have a view as to how they think that will work out. Other people have a different view that it may not work out that way. So, I want to avoid the description going too far where we get into that disagreement. So, when we say impact the value of the claims and then we just essentially explain that various crypto assets have risen in value since the petition date, and then that sort of clues people in as to why it's an important issue for them.

MR. AZMAN: Sure. Your Honor, may I have 30 seconds just to describe why we're late to the game? Because I do think it's important. I will bless than 30 seconds, please.

THE COURT: If you do that, then you're going to put me or somebody else in the court in a position to respond to that. Because it's certainly clear that various

of your clients have been involved in the case. And so, my -- I don't really want to be in the position of parsing it. So, Mr. Azman, you've gotten your point across. You filed objection. You're making your point as to a disclosure statement tissue. I think we've addressed it. I think we may want to leave on a high note for lack of a more precise legal term.

So, I understand there are reasons, and I understand you sort of previewed them before that you're not happy with the results of the discussions that led to the distribution principles. I get that potion. And beyond that, I think probably it's not worth getting into that debate.

MR. AZMAN: Thank you, Your Honor. Appreciate your patience.

MR. O'NEAL: Your Honor, if I may respond to something that was said though. And I will be very brief. But I found in this case that when people say things that are not accurate, that we need to address them. Because if we do not, they will take a life of their own.

THE COURT: Well, listen, that's why I tried to say to people earlier, wherever you end up, you need to get informed in an objective way. Bankruptcy is complicated. These are complicated issues. I've been on the bench for 13 years. I did the American Airlines case. I've done a bunch

of other cases. I know complicated when I see it. These are complicated issues. So, anybody who has a straightforward narrative about how all this is going to work out one way or the other is misguided. So, people need to get informed, and it's hard stuff to figure out. And everything has collateral consequences. So, whether they're taxes, whether there's settlements, whether there's dealing with the New York Attorney General, there's a lot of things. So, I don't want to be the accuracy police, but I still say in a prior opinion I did call out counsel who I thought was in the business of throwing grenades that were nothing more than speculation. And it does a huge disservice to the creditors and to everybody involved in the case. So, let's leave it there.

MR. O'NEAL: Can I have 30 seconds just because -- no? Okay.

THE COURT: I would really ask you to just leave it there.

MR. O'NEAL: All right. Okay.

THE COURT: Just because at this point, we're in response and --

MR. O'NEAL: All right. I got you. I understand.

THE COURT: So, if I say it, I'm allowed to make myself be the last word.

MR. O'NEAL: I understand.

THE COURT: So, I'm going to invoke my privilege that way.

MR. O'NEAL: Okay. I tried.

THE COURT: Fair enough.

MR. O'NEAL: Thank you, Your Honor. I think with that, then we'll pull together that language. And then I think Ms. VanLare is going to walk through the schedule because that's part of the solicitation procedures order. And then we'll turn after that to the exclusivity extension.

THE COURT: All right.

MS. VANLARE: Your Honor, I'm happy to --

THE COURT: Hold on one second. I'm just trying to figure out how much longer we're going to go in terms of imposing on court personnel. So, it's 4:30 now. Do we think we're likely to wrap up by 5:00 or sort of in the neighborhood, I guess?

MS. VANLARE: I would think so. I think the only items I'm aware of is we wanted to talk about the schedule, which can be quick or not depending on...

THE COURT: Hold on one second. Just give me one minute. I just want to make sure we don't have to cut off in the middle of an important discussion.

All right, I think we're good. 5:00 is an expiration, but not a hard stop time. So, I think we're good. Again, I don't want to cut off prematurely. We don't

want to -- we want to finish today. So, with that, Ms. VanLare?

MS. VANLARE: So, maybe what I'll do, Your Honor, is I will just maybe point out some of the key dates just to make sure everybody is aware. This schedule is agreed upon among the Debtors, the Creditors' Committee, the Ad Hoc Committee. And it's been widely circulated.

THE COURT: I did want to confirm, I did see there's a number of provisions about discovery. Are those things that have been negotiated among the parties?

MS. VANLARE: Yes, yes.

THE COURT: Okay. That's good to know because there are things in there that are I wouldn't say unusual but are either very specific asks by one party or a result of negotiations. And since it's the result of negotiations, I will stay out of it since you all have worked hard to make that work.

MS. VANLARE: Yes, Your Honor. This has been negotiated extensively.

THE COURT: I figured.

MS. VANLARE: Today's -- we did file a blackline today. It just tweaked the voting record date just given the adjournment of the disclosure statement hearing. So, that's pushed to November 28th, which is tomorrow.

THE COURT: So, the voting record date goes from

the 3rd to the 28th?

MS. VANLARE: To the 28th.

THE COURT: All right. I was going to ask you about that. All right.

MS. VANLARE: The other change we made was the plan supplement date went from December 22nd to the 29th. I think those are the only changes to the timeline.

We have the confirmation hearing here as February 14th through the 16th depending on Your Honor's availability. I don't know if that's something that you know right now or if you would like us to coordinate with chambers. But that would be the timeline.

THE COURT: Hold on one second. I checked enough dates that I now don't remember the details on those dates. We'll check in a second.

I did have a question to ask you. So, I see the Rule 3018(a) motions. And normally those are often reserved, but not exercised. They don't become a necessary thing to decide. I can see how this case might be a little different that way. And so, I know that the voting deadline is January 10th, so what I would propose is starting a hearing on the 21st in the afternoon at 2:00 p.m., and then continuing it on that Wednesday, which I think is January 3rd, with the idea that we're still well out before the voting deadline, but if it becomes a protracted matter, that

people know we have enough time to get it done.

I don't think anybody wants to be contemplating this on, so the 22nd is a Friday, and the Monday is Christmas, so we probably want to avoid that particular problem. So, if that works for you, I was going to just tweak the schedule that way.

MS. VANLARE: So, just to make sure we got that, so the hearing on Rule 3018(a) motions would be on December 21st --

THE COURT: Yes.

MS. VANLARE: -- rather than 22nd?

THE COURT: At 2:00 p.m.

MS. VANLARE: And then at 2:00 p.m., and then and --

THE COURT: Continuing to January 3rd at 10:00, and that way, you know, you have enough court time.

MS. VANLARE: I think that makes sense. Okay.

THE COURT: And I did also want to tweak the reply, just because I know the objection deadline, I think, is the 29th.

MS. VANLARE: Yes.

THE COURT: And I realize if it's February 2nd at 4:00, and the hearing is on the 12th, and the objection deadline's the -- I'm sorry the hearing is on the 14th, and the objection deadline's at 4:00 on the 12th, then that

really leaves me only one day. So, I was going to ask you if you could move that back a day to the 11th at 4:00.

MS. VANLARE: The 11th is a Sunday. Is that what you're suggesting, Your Honor, or were you thinking the 9th?

THE COURT: Oh, well, or make it -- make it the 12th at 10:00, just so I have the day so I have the 12th and the 13th, just given a preview of the issues we might be discussing.

MS. VANLARE: Okay.

THE COURT: All right, so any other thing -- anything else you want to say about deadlines?

MS. VANLARE: I don't think so, Your Honor. I think we're good on deadlines.

THE COURT: All right, let me just double check. All right, the 14th through 16th is fine.

MS. VANLARE: Okay, perfect.

THE COURT: Thank you.

All right, and other comments about the order or procedures?

MR. ZIPES: Your Honor, if I may, Greg Zipes. (Indiscernible), and it'll be very brief. Your Honor, my office did have objections to the disclosure statement, and one of them was just generally the timing and the filing of documents. And again, today, we were able to work and review everything. There are some open-ended questions,

actually, on a few points here, but for the most part, we've been able to work through the latest changes.

My office is concerned about the last-minute filings and just wanted to get some assurance that with respect to the plan disclosure state -- the plan, that we'll -- that the deadline will be firm, whatever that is, and that amendments won't come after, for example, the objection deadline for the plaintiff.

THE COURT: Well, I think we're in a position with the disclosure statements. It's a little different, because there were a lot of negotiations that came out of the last hearing, and so obviously, if there are material changes to the plan, they've got to be on appropriate notice. And so, I think that's our guiding principle, and I think you're right to point that out and to be sensitive to that, and I appreciate that.

MR. ZIPES: Okay, thank you.

THE COURT: Anything else from the UST while you happen to be near the podium, Mr. Zipes?

MR. ZIPES: Your Honor, we think we'll have some plan objections, but those are reserved.

THE COURT: Oh, and I recognize that we're not here for a confirmation hearing. My question would be, is there anything worth identifying now such that there are steps that can be taken to address concerns? Sometimes

that's the case, where if you get in front of it, they can get resolved. And there are other ones that are sort of fundamentally in the DNA of the plan.

MR. ZIPES: Your Honor, there are some points that parties should not be -- that they should be familiar with some of our objections. I know this Court has ruled on some of these objections, and we do appreciate that the opt-in was added. That wasn't -- that was a modification to the process here in connection with releases, so to the extent there were released parties, creditors and -- are able to vote affirmatively on the releases. That's kind of the gold standard in terms of releases, so we appreciate that.

On exculpations, Your Honor, we raised that at the disclosure statement stage as well, and this Court has expressed its views, frankly, on what -- who can be exculpated, fiduciaries versus non-fiduciaries. That may be an issue that we'll have to save for our confirmation. And Your Honor, there are a couple of other points in that regard as well, but we'll take them.

THE COURT: All right, and so I certainly would appreciate it if there are other things that your office has issues with that can be addressed in the course of between now and the confirmation hearing, please share them as soon as you're able with the Debtors, the Committee, interested parties, just so we can get it in front of them. And so, I

sort of had one or two things that struck me that way that I may flag before all that's said and done, just in terms of things we can get in front of. But if --

MR. ZIPES: Your Honor, we were able to resolve a lot of the issues, and as I told Debtor's counsel, we have a certain process that we have to follow in our office as well, so if I'm give a last-second change, I can't necessarily convey that to the Court. It's --

THE COURT: No, I appreciate that. So, what I would just say is, as soon as you're able to communicate it, the better. Again, there are certain things like the distribution principles that are fundamentally plan terms, and getting you know, there are other things that are sort of more process objections where people say, well, we have this issue, unless the following things are done or the following findings are made or the following pleading is filed, and so those are the ones I'm just anxious to try to see if we can move those along and clear up as many things that are fixable as possible.

MR. ZIPES: Agreed, Your Honor.

THE COURT: All right, thank you. I appreciate that.

All right, Ms. VanLare, anything else that you had on your list of things to address.

MS. VANLARE: Nothing else from me, Your Honor.

Mr. O'Neal would like to address the exclusivity issue.

THE COURT: All right, and so when do you want me to go through the order? I had a couple of things --

MS. VANLARE: Oh --

MR. ZIPES: I think we should do that --

MS. VANLARE: -- oh, I'm sorry.

THE COURT: No, that's all right.

MS. VANLARE: I should have asked, Your Honor, yes.

THE COURT: No, that's perfectly fine. That -- you've got a lot on your plate. So, perfectly fine.

MS. VANLARE: Yes, we should do that.

THE COURT: And we've already gone through one or two things, and I don't have a lot, so... And I'm using Document 978, so the one that was filed on the 27th at 12:09.

MS. VANLARE: Yep.

THE COURT: All right.

MS. VANLARE: Great, yep, I have that as well.

THE COURT: All right, so we talked about dates. So, if you look at Page 4, Paragraph E.

MS. VANLARE: I'm there, Your Honor.

THE COURT: All right, so this is just a minor linguistic thing. It says, "the date set forth below during which Debtors may solicit exception to the plans is" -- I

think it should say "provide," just -- it's just a language thing, substantive.

MS. VANLARE: Got it.

THE COURT: And then on Page 6, I think we went through all of the dates, and you -- I had a question about using November 3rd for the voting record date, but you changed that, so minor linguistic things. "Solicitation deadline within three business days of," and I think you'd want to add "entry of the disclosure statement order."

MS. VANLARE: Got it.

THE COURT: And then stick that in also on the "confirmation hearing notice of publication deadlines is within 10 days of," and stick in "entry of the."

MS. VANLARE: Okay.

THE COURT: And Page 7, Paragraph 5, which contemplates that the hearing may be adjourned from time to time without notice other than adjournments in open court and/or notice of adjournment filed on the Court. Certainly, you can adjourn it by notice of adjournment. I guess my thought would be that if it's adjourned in open court, I think you normally had been filing a notice anyway, just given the -- particularly given the circumstances of your creditor body, so I think that's just a minor tweak, and I think that --

MS. VANLARE: So, I'm sorry, just so -- no, I

understand --

THE COURT: So, if it's adjourned in open court, that you also file a notice.

MS. VANLARE: Got it, got it. So, maybe we can just delete "announced in open court," and that way it's just clear whenever --

THE COURT: It's always by notice. It's an excellent idea. So, going to Page 9, and this is a minor thing, but just to make it a little more readable for non-lawyers, I would move Paragraph 10 to before Paragraph 9. And the reason why is, Paragraph 9 talks about distribution of solicitation packages to everybody other than Gemini Letters -- Lenders, and Paragraph 11 talks about it, distribution for the Gemini Lenders, and I'd like to keep those paragraphs together, so Paragraph 10 is on a different topic, so just move it before Paragraph 9.

MS. VANLARE: Okay.

THE COURT: And in Paragraph 13 on Page 10, this is talking about fees and that Gemini is going to get reimbursed in connection with out-of-pocket expenses to -- for solicitation of votes, and I know that that whole process is something that's been negotiated and has worked well. So, I don't know, it says "for the voices in doubt, the Debtors and the Committee, each reserve their rights to object to the reasonableness of Gemini's reimbursed fees."

I know the US Trustee's office is usually a party that gets that right to chime in as well as to the reasonableness of fees.

MS. VANLARE: Okay.

MR. ZIPES: Thank you, Your Honor.

THE COURT: And the next paragraph talks about "the Debtors are authorized but not directed to distribute the solicitation package, et cetera, et cetera, by regular mail or electronic mail, where such holders provide an electronic mail address, unless not otherwise practicable." And I guess my question is, is there a circumstance where you'd be splitting, like you might send a ballot by mail, and say you can get everything else electronically, or is it going to be one or the other? And the idea is to not have any confusion.

So, because I can imagine you're sending a lot of attachments and whether the size is an issue, and that's why the otherwise-practicable kicks in. So, I guess that's my question, is whether the solicitation package, where you're talking about electronic mail, you're sending everything by electronic mail, where that's the way you're communicating with those -- that particular creditor.

MS. VANLARE: I imagine there may be circumstances where we send the ballots and information by regular mail as to how to access electronically the voluminous documents,

you know, things like plan disclosure statement, links, and things that.

THE COURT: All right, well, let me ask the Committee your views. I'm just trying to make sure that it's as clean as possible for purposes of creditors, understanding what it is they're getting and what it is they're supposed to do.

MR. SHORE: Yeah, we've signed off on the language. We're comfortable with it the way it was.

THE COURT: Okay. All right.

Next page, 11, Paragraph 18. At the very end, I think there's just some extra verbiage that crept in there, where it says, "or as soon as practicable thereafter." Or there's something missing, I'm not sure.

MS. VANLARE: I agree, Your Honor. If we could just take that out.

THE COURT: All right. So, the next page, Page 12, middle of the page, it talks about Gemini is authorized to provide the Gemini voting statement to Kroll by not less than seven days following Gemini's receipt. My comment here, and it may be fine, is that there are a couple of these places where you have hard dates and others where you have shifting dates. And I just want to make sure they don't somehow collide if things slide or things get extended, that you find yourself in an impossible situation

in terms of complying with the order. So, I'll just leave it to you to double-check, so but just I noticed that there's some hard dates and then some other dates that are essentially tied to various events.

So, for the end of that paragraph, this is also talking about any ballots received that would be considered defective or excluded from the final voting results. There's a concept in Paragraph 23 on the next page, talking about the solicitation agent being authorized but not required to contact parties who submit incomplete or otherwise deficient ballots to make reasonable efforts to secure such deficiencies. And I would assume that we'd import the same concept here for these things, where somebody may have submitted something that in a form that they shouldn't have. Does that make sense?

So, we're doing it for defective -- deficient ballots, and so here, we're mentioning that if you essentially have a particular kind of defective ballot, email, hard-copy mail, or hand delivery, that those'll be defective. You could maybe just even make a reference to about -- "see Paragraph 23" or however you want to do it.

MS. VANLARE: I just -- that all seems perfectly reasonable. I do want to just confirm, because this Paragraph 20 deals with Gemini Lenders' ballots specifically --

THE COURT: Oh, I'm sorry, I'm looking at -- I'm sorry, I meant the end of Paragraph 19. And I understand why you're confused if I gave you the wrong paragraph. Sorry about that.

MS. VANLARE: We'll take another look. I -- if we can, we will. There is a -- there's a separate process that we have created, working closely with Kroll as well as Gemini with respect to the Gemini Lenders. And so, --

THE COURT: Right. Yeah, I'm just trying to treat everybody the same so that if --

MS. VANLARE: Understood.

THE COURT: -- we've got that concept with this -- when you've got the solicitation agent, that the folks who are doing it through the Gemini lending voting portal should probably get the same benefit of, if there's an obvious mistake, and somebody is "authorized but not required to contact the parties to get them to fix things."

MS. VANLARE: The only issue I see, Your Honor, is if we can't identify them, because there's a very specific way that Gemini Lenders will be voting through the portal, so maybe we can do what you're asking, but just say something like "to the extent practicable."

THE COURT: That's fine, yeah, that's fine. And that -- again, Paragraph 23 says "Authorized but not required," so I'm perfectly fine with that, "to the extent

practicable." They can't pull a rabbit out of hat if you don't have a hat, so that's perfectly fine.

So, for Paragraph 25, when I have language that says, "No votes are -- to accept or reject, is receded to a particular class," I just say that class shall be treated in accordance with applicable law, as opposed to saying they're voted to accept. It's actually come up in some Sub 5 -- Chapter 5 cases recently in decisions.

And I don't think this is necessary, so but I'll mention it, just for Paragraph 27. It talks about both the filing of the supplement and then notice of the filing of the supplement. And it says the notice should be at the same time as the filing or soon thereafter, as soon as practicable thereafter, which I'm assuming won't be more than a day or two, so but I don't think it's necessary to put in language to that effect. I just want to make sure that's sort of the understanding.

MS. VANLARE: Yes.

THE COURT: All right. So, on Page 15, Paragraph 29, if you go to the end of that first sentence talking about "not required to send solicitation packages to various folks, including the -- any party to whom the disclosure statement hearing notice was sent but was subsequently returned as undeliverable." I always put in "after a reasonable search for alternative address," reasonable

search, and then that way, I would take out the last sentence that talks about "no one's required to do any additional research." And again, it's a reasonable search. It's not -- you're not required to move Heaven and Earth, but in this day and age of the Internet, there's information reasonably available quickly.

So, turning to Paragraph 31 at the bottom of Page 15 and Paragraph 32, I was a little confused about the timing for the assumption and rejection notices vis-à-vis the filing of the objection to treatment. So, if you go onto Paragraph -- so it talks about the treatment objection. It has to be filed by the confirmation objection deadline. And but then the -- and that's in Paragraph 32, but then Paragraph 31 says "at least 10 days prior to the confirmation hearing, the assumption and rejection notices need to be filed." So, I don't know that the timing lines up because I think the objection is due by the confirmation objection deadline. What is that, a week before? So, --

MS. VANLARE: So, maybe if we just say at least 10 days prior to the objection deadline for the confirmation -- to confirmation, rather than confirmation hearing?

THE COURT: All right, to -- and then there's also, in 32E, it says it's got to be served, filed, and served, such that it's actually received no later than the confirmation objection deadline. There's a possibility that

somebody would only get like, four or five days for that. And so, what I'd ask is, take a look at it so that somebody gets a reasonable amount of time. I would say they should be able to get 14 days to take a look at it and figure out if they have any issues, and then but I'm open to suggestions on how you want to sequence it.

MS. VANLARE: Okay, understood.

THE COURT: And... So, for Paragraph 35 on Page 17, the second part of it I get. It talks about the Debtors being authorized to supplement the exhibit about assumed contracts. And it basically says the second half is with respect to any executory contract or unexpired lease that's been resolved after the effective date. So, I -- you can do that whenever you want, and I get that. The first half, though, says that the Debtors are authorized to supplement that at any time prior to the effective date. And I don't know how -- then we need to say something about what somebody's ability to object is to that or be heard on that.

MS. VANLARE: Okay, we've got that.

THE COURT: So, I think you can add that. Moving onto Page 19, Paragraph G, it talks about if there's an objection or request for estimation of a claim, and they -- you have it being temporarily disallowed. In those circumstances, I usually just put in "allowed" and the undisputed amount of the claim or $1, whichever is greater,

meaning a claim objection doesn't by itself mean somebody can't vote.

I think we talked about the reply date, which I think is mentioned on Paragraph 39, so that's -- and then I had questions about the discovery stuff in Paragraph 44 and 45, but since it is the subject of agreement, I'm happy to move on. And I don't know that it'll make any wit of difference, but in Paragraph 24 and Subparagraph C, it talks about strongly encouraging parties to resolve any disputes about deposition times. It says "Debtors." I think you could say "the Court," because I certainly strongly do encourage folks to resolve those.

MS. VANLARE: I'm sorry, Your Honor, which paragraph --

THE COURT: Paragraph -- hold on, let me give you that again. Page 24, Subsection C, so it's near the top, where it says, "the Debtors," I would just say "the Court."

MS. VANLARE: Instead of the Debtors, the Court?

THE COURT: Yeah. I'd like to think that would make it more likely. I probably -- I'm probably not accurate in that. So, that's what I had on the order. And then, in the vein of thinking about issues that maybe folks can get ahead of, I did see that there was a reference to restructuring fees and expenses for a couple of groups, and I don't know if you've talked to other folks about that or

if that's the subject of a possible objection or not.

You would know better than I would, and so but if you think that it might draw an objection, I would encourage folks to think about whether it makes any sense to file some sort of motion, because often, those issues devolve into a substantial contribution, folks' role in the case, when we end up dealing with it on a less than full developed record later, and sometimes we can get in front of those issues. So, you'll know better whether that's worth doing or not, but I certainly have been there in the past.

MR. ZIPES: Your Honor, may I just be heard on that very briefly?

THE COURT: Sure.

MR. ZIPES: I agree with that generally because our objection may, in connection with these, may involve a question of whether there's substantial contribution or not, so and what the standard should be. And I think that's one of the --

THE COURT: I -- yeah, I've seen enough of those objections. That's why I want to flag this as an issue we can get out in front of, and sometimes we end up having that discussion, but I don't have a well, sort of a proper record or procedural vehicle to move forward on that, and that's not good for anybody.

So, on Paragraph -- on Page 116 of 312, there's a

reference to the releases by the Debtor, and it references released parties. I think "released parties" is a defined term in the plan, so I don't think it's defined in the disclosure statement. At least I couldn't find it, so I think it needs to be defined somewhere in that --

MS. VANLARE: And that's --

THE COURT: -- in that -- it could be in that paragraph, or it could be somewhere else, but just so people, again, in the interest of adequate information -- I will say, in that paragraph, which is IV, I think it is one long sentence. I promise never to penalize anybody if they want to make it more than one sentence, because it is -- it's one of those sentences that I feel like I lose about 10 points of IQ by the time I finish it, so just something to keep in mind.

The other thing I think is helpful in terms of getting in front of things is to include a preview, which is the Debtors will seek the relief as to the release parties, and just a sentence or two that explains why, the general reason, because I think it starts in the dialogue and sort of gets in front of the issue for purposes of -- I mean, we all know what kind of confirmation objections are often on these issues. We know the Supreme Court is going to illuminate the issue further for us, but I think it's always helpful to just provide a couple of sentences on that here.

MS. VANLARE: We did that, Your Honor.

THE COURT: Oh.

MS. VANLARE: We added actually several paragraphs.

THE COURT: Well, I see what's covered, so I see connected with the amended disclosure statement, amended plan, plan supplement. Am I missing something in terms of -- I see "in exchange for good and valuable consideration."

MS. VANLARE: We actually added it somewhere else. I'm just looking for the page number.

MR. O'NEAL: We cross referenced.

MS. VANLARE: Oh, we added --

THE COURT: Oh, if you've got it, then do a cross -- that's helpful. The idea is that somebody knows.

MS. VANLARE: That, we can do that. Yep, yeah, yep, happy to do that and have that --

THE COURT: Okay, that's great. And so, on Page 118 of 312, and I'm sorry, I'm being a little persnickety on this one, but it says "entry of the confirmation order will constitute approval of the releases," and I think that's not technically accurate, because the confirmation order may say what it's going to say, whatever it says, so I think you should just say the Debtors are seeking approval of a confirmation order that provides for these releases.

And let me see if there's anything else on my list

here. So, I think, Ms. VanLare, I think you already preempted this, but I did see in a couple of spots a reference. And I think it was in the distribution principles, about "regulatory legal or practical considerations may affect the ability of the Debtors to make in-kind or like-kind distributions." And so, I think you covered it today by essentially saying, here's what we intend to do, we invited a conversation with the regulators.

I'm glad you flagged the issue. I think it's important. I remember Judge Glenn, I think, in his cryptocurrency case, at a certain point, said, "Geez, there's cases out there talking about what is and isn't a security. It doesn't affect this case. I want to makes sure people are thinking about the issues." You clearly have it in mind, and so again, another thing that I think is helpful to get in front of, so thank you for doing that. And I think with that, those are all my comments.

MS. VANLARE: Just one other thing I wanted to flag for Your Honor with respect to the order, just because another change that we made today that will perhaps --

THE COURT: Okay.

MS. VANLARE: -- you may not have noted. We did add a paragraph. It's a new Paragraph 55. That was in response to a request by the Securities and Exchange Commission that is typical language that nothing herein is a

finding that this -- that anything's a security.

THE COURT: Right.

MS. VANLARE: So, I just, just for completeness's sake, I wanted to mention that. That's part of the black line.

THE COURT: Yeah, thank you, and I'm not a securities lawyer. I wasn't one before I got on the bench, so my only goal really is to just flag the issue for consideration. I know you've thought about it and are thinking about it, but just, I think what you did, this, earlier today, to essentially invite a dialogue to the extent that there's any issues about distribution and what's intended, that folks start chatting and make sure that people get comfort as to those issues.

So, I just wanted to throw that out there, and again, I'm often sort of the last one to be in the know on these things, so it may be that you're already well in front of me. And I see that the SEC is on the line and has raised its hand. I would like to compliment you for your technical prowess in doing what many folks are unable to do, so I'm happy to hear from you. Counsel?

MR. UPTEGROVE: Thank you, Your Honor. Good afternoon, again. William Uptegrove for the United States Securities and Exchange Commission. I've had a couple of points to make, and I thought this would be a good time to

make them, given the topic. And I'll be really brief. The (indiscernible) address our issues for the purpose of the disclosure statement. The SEC is, however, continuing to reserve its right to raise confirmation issues at confirmation.

Regarding the distribution, which Your Honor was just talking about, we have had discussions with the Debtors, and we expect to continue to have discussions with the Debtors. We're also continuing to review the plan and distribution principles, but at this point, the SEC is not taking a position on the procedures for the purpose of the disclosure statement. We don't see it as a disclosure issue, and the distribution principles themselves specifically say that there's change, so for that reason, if nothing else, we're reserving our right to raise any issue that's with not respect to confirmation.

However, we understand, and we appreciate that the Court wants the parties to work out any wrinkles or issues as soon as practical, and that's something that has been a top of mind for us, and it will continue to be as we go forward. So, I just wanted to raise that, since we were on the topic, Your Honor, so thank you for that.

THE COURT: All right, no, I appreciate it. That's really the point, and it sounds like you all are well in front of me, and judges are never offended when we raise

an issue and someone says, "No, Judge, we're all over that," and that's clearly the case for both the Debtors and the SEC, and I appreciate that.

And we'll deal with issues as they arise, but we never want to have a fire drill just because things have gotten to that point. That's in nobody's best interest, and I know we've all had plenty of fire drills in the past, and we're not anxious to have one unnecessarily, so thank you for your efforts. I appreciate your comments.

So, Ms. VanLare, anything else?

MS. VANLARE: Nothing from me.

THE COURT: Anything else from any other party as to the disclosure statement?

All right, based on the fairly extensive record established at this hearing and the prior hearing, the objections that were filed, the resolution of the objections that were addressed at this hearing and the prior hearing and all the facts and circumstances of the case, I'm happy to approve the disclosure statement as containing adequate information as that term is used in the Bankruptcy Code and applicable case law.

It contains quite a bit of information. And it's an important step towards moving the case forward, and obviously, I do appreciate the challenges here where some of what needed to be disclosed were things that were integral

parts of the plan and that you ended up having to negotiate certain things very much up front for the disclosure statement, including the distribution principle. So, thank you for your hard work and efforts on that, and so the disclosure statement is approved. And I know we have a few other matters to address.

MR. O'NEAL: Thank you, Your Honor. This is Sean O'Neal of Clearly Gottlieb on behalf of the Debtors. I think we just have the matter of the exclusivity extension. As you will recall, Your Honor, you extended it until this hearing and then said that we could make an oral motion. So, we're making an oral motion to extend it to the confirmation hearing for plan exclusivity, and then 30 days after the confirmation hearing for a solicitation.

THE COURT: All right, any party that wishes to be heard in connection with the request to extend exclusivity?

MR. ROSEN: Your Honor, Brian Rosen, Proskauer Rose, on behalf of the Ad Hoc Group. Based upon the execution of the plan support agreement and the covenants which are in that plan support agreement regarding any modifications to the amended plan, we do not oppose the request for extension.

THE COURT: All right, thank you very much. Any other party that wishes to be heard?

All right, hearing no objection, and based on the

entire record of the case, I'm happy to approve the oral application for an extension of exclusivity. One can quibble about what progress looks like, but I can say after this hearing and the prior hearing, this is progress.

So, it's also clear that while there's a lot yet to be decided, that there has been substantial communication and negotiation among stakeholders, so there really is no credible argument that the Debtors are using the additional time, in any way, shape, or form, improperly to disadvantage creditors. It's a tough case, and so people will continue to negotiate and try to resolve issues, but a lot of progress has been made, so it's an easy call, so the motion is granted.

MR. O'NEAL: Thank you, Your Honor. We will submit an order.

THE COURT: All right, thank you very much. And with that, is there anything else that needs to be addressed here today?

MR. O'NEAL: Your Honor, I think we have concluded all matters on the agenda.

THE COURT: All right, and I understand we're back here on Thursday.

MR. O'NEAL: That's correct.

THE COURT: Okay.

MR. O'NEAL: I think that will be, though, a -- I

think that's a virtual hearing, if I'm not mistaken.

THE COURT: Yes, I think that's right, unless --

MR. O'NEAL: Yeah.

THE COURT: -- you would like to request others, but I think those matters are much more straightforward than today, so all right. Well, thank you very much. I appreciate everybody's patience, good humor, and efforts in moving the case forward. And see you all very soon.

MR. O'NEAL: Thank you.

MR. ZIPES: Thank you, Your Honor.

THE COURT: Thank you.

(Whereupon these proceedings were concluded at 5:10 PM)

I N D E X

RULINGS

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing transcript is a true and accurate record of the proceedings.

Sonya Ledanski Hyde

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Date: December 1, 2023

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